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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 354

RIN 3064–AF31

Parent Companies of Industrial Banks and Industrial Loan Companies

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation is adopting a final rule that requires certain conditions and commitments for each deposit insurance application approval, non-objection to a change in control notice, and merger application approval that would result in an insured industrial bank or industrial loan company becoming, on or after the effective date of the final rule, a subsidiary of a company that is not subject to consolidated supervision by the Federal Reserve Board. The final rule also requires that before any industrial bank or industrial loan company may become a subsidiary of a company that is not subject to consolidated supervision by the Federal Reserve Board, such company and the industrial bank or industrial loan company must enter into one or more written agreements with the Federal Deposit Insurance Corporation.

DATES: The rule is effective on April 1, 2021.

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I. Policy Objectives

The Federal Deposit Insurance Corporation (FDIC) monitors, evaluates, and takes necessary action to ensure the safety and soundness of State nonmember banks,[1] including industrial banks and industrial loan companies (together, ''industrial banks'').[2] In granting deposit insurance, issuing a non-objection to a change in control, or approving a merger, the FDIC must consider the factors listed in sections 6,[3] 7(j),[4] and 18(c),[5] respectively, of the Federal Deposit Insurance Act (FDI Act). Congress expressly made all industrial banks eligible for Federal deposit insurance in 1982.[6] As deposit insurer and as the appropriate Federal banking agency for industrial banks, the FDIC supervises industrial banks. A key part of its supervision is evaluating and mitigating the risks arising from the activities of the control parties and owners of insured industrial banks to ensure they do not threaten the safe and sound operations of those industrial banks or pose undue risk to the Deposit Insurance Fund (DIF).

Existing State and Federal laws allow both financial and commercial companies to own and control industrial banks. Congress expressly adopted an exception to permit such companies to own and control industrial banks, without becoming a bank holding company (BHC) under the Bank Holding Company Act (BHCA), as part of the Competitive Equality Banking Act of 1987 (CEBA).[7] Industrial banks today are owned by financial and nonfinancial commercial firms. The FDIC has in recent years received applications from groups seeking to establish new industrial banks that would be owned by commercial parents. Proposals regarding industrial banks have presented unique risk profiles compared to traditional community

[1] *See* 12 U.S.C. 1811, 1818, 1821, 1831*o*–1, 1831*p*–1.

[2] Herein, the term ''industrial bank'' means any insured State-chartered bank that is an industrial bank, industrial loan company, or other similar institution that is excluded from the definition of ''bank'' in the Bank Holding Company Act pursuant to 12 U.S.C. 1841(c)(2)(H). State laws refer to both industrial loan companies and industrial banks. For purposes of this rule, the FDIC is treating the two types of institutions as the same. The rule does not apply to limited purpose trust companies and credit card banks that also are exempt from the definition of ''bank.''

[3] 12 U.S.C. 1816.

[4] 12 U.S.C. 1817(j).

[5] 12 U.S.C. 1828(c).

[6] Garn-St. Germain Depository Institutions Act of 1982, Public Law 97–320, 96 Stat. 1469 (Oct. 15, 1982).

[7] Public Law 100–86, 101 Stat. 552 (Aug. 10, 1987).

bank proposals. These profiles have included potential owners that would not be subject to Federal consolidated supervision,[8] affiliations with organizations whose activities are primarily commercial in nature, and non-community bank business models.[9]

Given the continuing interest in the industrial bank charter and the evolving business models, the FDIC proposed a rule in March 2020 to codify existing practices utilized by the FDIC to supervise industrial banks and their parent companies, to mitigate undue risk to the DIF that may otherwise be presented in the absence of Federal consolidated supervision of an industrial bank and its parent company, and to ensure that the parent company that owns or controls an industrial bank serves as a source of financial strength for the industrial bank, consistent with section 38A of the FDI Act.[10] The proposed rule described certain commitments that would be required as a condition of the FDIC's approval of, or non-objection to, each deposit insurance application, change in control notice, or merger application resulting in an industrial bank becoming a subsidiary of a company not subject to consolidated supervision by the Federal Reserve Board (FRB; each such parent company a Covered Company). The proposed rule required such a company and the subsidiary industrial bank to enter into one or more written agreements with the FDIC that contain certain commitments to be undertaken by the company to ensure the safe and sound operation of such industrial bank. The required commitments include capital and liquidity support from the parent to the industrial bank that have been incorporated in some form in the FDIC's prior actions to create an appropriate supervisory structure for industrial banks and their parent companies.[11]

The FDIC is now issuing a final rule, which is largely consistent with the proposed rule. The final rule makes four substantive changes to the proposed rule. First, the final rule requires compliance from covered entities on or after the effective date of the rule rather than simply after, as proposed. Second, the final rule requires additional reporting by Covered Companies regarding systems for protecting the security, confidentiality, and integrity of consumer and nonpublic personal information. Third, the threshold regarding the limitation of a Covered Company's representation on the board of a subsidiary industrial bank has been raised in the final rule from 25 percent, as proposed, to less than 50 percent. Lastly, the final rule modifies the restrictions on industrial bank subsidiaries concerning the appointment of directors and senior executive officers to apply to the industrial bank only during the first three years after becoming a subsidiary of a Covered Company. These changes are discussed in sections IV.B.1., IV.B.4., and IV.B.5. of this Supplementary Information section below. In addition to providing this comprehensive framework for supervision, the final rule also provides interested parties with certainty and transparency regarding the FDIC's practices when making determinations on filings involving industrial banks.

II. Background

A. History

Industrial banks began as small State-chartered loan companies in the early 1900s to provide small loans to industrial workers. Initially, many industrial banks did not accept any deposits and funded themselves instead by issuing investment certificates. However, the Garn-St. Germain Depository Institutions Act of 1982,[12] among other effects, made all industrial banks eligible for Federal deposit insurance. This expanded eligibility for Federal deposit insurance brought industrial banks under the supervision of both a State authority and the FDIC.[13] The chartering States gradually expanded the powers of their industrial banks so that today industrial banks generally have the same commercial and consumer lending powers as commercial banks.

Under the FDI Act, industrial banks are ''State banks'' [14] and all of the existing FDIC-insured industrial banks are ''State nonmember banks.'' [15] As a result, the FDIC is the appropriate Federal banking agency for industrial banks.[16] Each industrial bank is also regulated by its respective State chartering authority. The FDIC generally exercises the same supervisory and regulatory authority over industrial banks as it does over other State nonmember banks.

B. Industrial Bank Exclusion Under the BHCA

In 1987, Congress enacted the CEBA, which exempted industrial banks from the definition of ''bank'' in the BHCA. As a result, parent companies that control industrial banks are not BHCs under the BHCA and are not subject to the BHCA's activities restrictions or FRB supervision and regulation. The industrial bank exception in the BHCA therefore allows for commercial firms to own or control a bank. By contrast, BHCs and savings and loan holding companies (SLHCs) are subject to Federal consolidated supervision by the FRB and are generally prohibited from engaging in commercial activities.[17]

More specifically, the CEBA redefined the term ''bank'' in the BHCA to include: (1) Any FDIC-insured institution, and (2) any other institution that accepts demand or checkable deposit accounts and is engaged in the

[8] In the context of the proposed rule, ''Federal consolidated supervision'' referred to the supervision of a parent company and its subsidiaries by the Federal Reserve Board (FRB). Consolidated supervision of a bank holding company by the FRB encompasses the parent company and its subsidiaries, and allows the FRB to understand ''the organization's structure, activities, resources, and risks, as well as to address financial, managerial, operational, or other deficiencies before they pose a danger to the BHC's subsidiary depository institutions.'' *See* SR Letter 08–9, ''Consolidated Supervision of Bank Holding Companies and the Combined U.S. Operations of Foreign Banking Organizations'' (Oct. 16, 2008).

[9] *See* FDIC Deposit Insurance Applications, Procedures Manual Supplement, Applications from Non-Bank and Non-Community Bank Applicants, FIL–8–2020 (Feb. 10, 2020).

[10] Parent Companies of Industrial Banks and Industrial Loan Companies, 85 FR 17771, 17772–73 (Mar. 31, 2020). *See also* 12 U.S.C. 1831*o*–1(b).

[11] In March of 2020, the FDIC approved two deposit insurance applications for industrial banks owned by firms whose businesses are predominantly financial in nature, Square Financial Services, Inc., Salt Lake City, Utah (Square Financial), and Nelnet Bank, Salt Lake City, Utah (Nelnet). As part of both approvals, the FDIC required the industrial banks and their parent companies to enter into written agreements with the FDIC that are consistent with the requirements of the proposed and this final rule.

[12] 96 Stat. 1469.

[13] Prior to 1982, the FDIC had allowed some industrial banks to become federally insured, but FDIC insurance was typically limited to those industrial banks chartered by States where the relevant State's law allowed them to receive ''deposits'' or to use ''bank'' in their name. For additional historical context regarding industrial bank supervision, *see The FDIC's Supervision of Industrial Loan Companies: A Historical Perspective,* Supervisory Insights (2004).

[14] 12 U.S.C. 1813(a)(2).

[15] 12 U.S.C. 1813(e)(2).

[16] 12 U.S.C. 1813(q)(2).

[17] Section 4 of the BHCA generally prohibits a BHC from acquiring ownership or control of any company which is not a bank or engaging in any activity other than those of banking or of managing or controlling banks and other subsidiaries authorized under the BHCA. *See* 12 U.S.C. 1843(a)(1) and (2). The Home Owners' Loan Act (HOLA) governs the activities of SLHCs, as amended by the Dodd-Frank Act, which generally subjects these companies to the permissible financial holding company activities under section 4(k) of the BHCA (12 U.S.C. 1843(k), activities that are financial in nature or incidental to a financial activity). *See* 12 U.S.C. 1467a(c)(2)(H).

business of making commercial loans.[18] This change effectively closed the so-called ''nonbank bank'' exception implicit in the prior BHCA definition of ''bank.'' The CEBA created explicit exceptions from this definition for certain categories of federally insured institutions, including industrial banks, credit card banks, and limited purpose trust companies. The exclusions from the definition of the term ''bank'' created in 1987 by the CEBA remain in effect today. To be eligible for the CEBA exception from the BHCA definition of ''bank,'' an industrial bank must have received a charter from one of the limited number of States eligible to issue industrial bank charters, and the law of the chartering State must have required Federal deposit insurance as of March 5, 1987. In addition, an industrial bank must meet one of the following criteria: (i) Not accept demand deposits,[19] (ii) have total assets of less than $100 million, or (iii) have been acquired prior to August 10, 1987.[20]

Industrial banks are currently chartered in California, Hawaii, Minnesota, Nevada, and Utah. Under the CEBA, these States were permitted to grandfather existing industrial banks and continue to charter new industrial banks.[21] Generally, industrial banks offer limited deposit products, a full range of commercial and consumer loans, and other banking services. Although some industrial banks that have total assets of less than $100 million accept demand deposits, most industrial banks do not offer demand deposits. Negotiable order of withdrawal (NOW) accounts [22] may be offered by industrial banks.[23] Industrial banks have branching rights, subject to certain State law constraints.

C. Industry Profile

The industrial bank industry has evolved since the enactment of the CEBA. The industry experienced significant asset growth between 1987 and 2006 when total assets held by industrial banks grew from $4.2 billion to $213 billion.[24] From 2000 to 2006, 24 industrial banks became insured.[25] As of January 30, 2007, there were 58 insured industrial banks with $177 billion in aggregate total assets.[26] The ownership structure and business models of industrial banks evolved as industrial banks were acquired or formed by a variety of commercial firms, including, among others, BMW, Target, Pitney Bowes, and Harley Davidson. For instance, certain companies established industrial banks, in part, to support the sale of the manufactured products (*e.g.* automobiles) or other services, whereas certain retailers established industrial banks to issue general purpose credit cards. In addition, certain financial companies also formed or acquired industrial banks to provide access to Federal deposit insurance for brokerage customers' cash management account balances. The cash balances their customers maintain with the securities affiliate are swept into insured, interest-bearing accounts at the industrial bank subsidiary, thereby providing the brokerage customers with FDIC-insured deposits during the period of time that cash is held for future investment.

Since 2007, the industrial bank industry has experienced contraction both in terms of the number of institutions and aggregate total assets. As of September 30, 2020, there were 23 industrial banks [27] with $173 billion in aggregate total assets. Four industrial banks reported total assets of $10 billion or more; ten industrial banks reported total assets of $1 billion or more but less than $10 billion. The industrial bank sector today includes a diverse group of insured financial institutions operating a variety of business models. A significant number of the existing industrial banks support the commercial or specialty finance operations of their parent company and are funded through non-core sources.

The reduction in the number of industrial banks from 2007 to 2020 was due to a variety of factors, including mergers, conversions, voluntary liquidations, and the failure of two small institutions.[28] For business, marketplace, or strategic reasons, several industrial banks converted to commercial banks and thus became ''banks'' under the BHCA. Four industrial banks were approved in 2007 and 2008; however, none of those institutions exist today.[29] Moratoria imposed by the FDIC and Congress (as discussed below) were also a factor.

Since the beginning of 2017, the FDIC has received 12 Federal deposit insurance applications related to proposed industrial banks. Of those, two have been approved,[30] eight have been withdrawn, and two are pending.[31] The FDIC anticipates potential continued interest in the establishment of industrial banks, particularly with regard to proposed institutions that plan to pursue a specialty or limited purpose business model.

[18] 12 U.S.C. 1841(c)(1).

[19] Regulation D, 12 CFR part 204, implements the reserve requirements of section 19 of the Federal Reserve Act and defines a demand deposit as a deposit that is payable on demand, or issued with an original maturity or required notice period of less than seven days, or a deposit representing funds for which the depository institution does not reserve the right to require at least seven days' written notice of an intended withdrawal. Demand deposits may be in the form of (i) checking accounts; (ii) certified, cashier's, teller's, and officer's checks; and (iii) traveler's checks and money orders that are primary obligations of the issuing institution. Other forms of accounts may also meet the definition of ''demand deposit.'' *See* 12 CFR 204.2(b)(1).

[20] 12 U.S.C. 1841(c)(2)(H).

[21] Colorado was also grandfathered but it has no active industrial banks and has since repealed its industrial bank statute.

[22] A NOW account is an interest-earning bank account whereby the owner may write drafts against the money held on deposit. NOW accounts were developed when certain financial institutions were prohibited from paying interest on demand deposits. The prohibition on paying interest on demand deposits was lifted when the FRB repealed its Regulation Q, effective July 21, 2011. *See* 76 FR 42015 (July 18, 2011). Many provisions of the repealed Regulation Q were transferred to the FRB's Regulation D.

[23] 12 U.S.C. 1832(a). Only certain types of customers may maintain deposits in a NOW account. 12 U.S.C. 1832(a)(2).

[24] Most of the growth during this period is attributable to financial services firms that controlled industrial banks offering sweep deposit programs to provide Federal deposit insurance for customers' free cash balances and to American Express moving its credit card operations from its Delaware-chartered credit card bank to its Utah-chartered industrial bank.

[25] During this time period, the FDIC received 57 applications for Federal deposit insurance for industrial banks, 53 of which were acted on. Also during this time period, 21 industrial banks ceased to operate due to mergers, conversions, voluntary liquidations, and one failure (Southern Pacific Bank, Torrance, CA, failed in 2003).

[26] Of the 58 industrial banks existing at this time, 45 were chartered in Utah and California. The remaining industrial banks were chartered in Colorado, Hawaii, Minnesota, and Nevada.

[27] Of the 23 industrial banks existing as of June 30, 2020, 14 were chartered in Utah, four in Nevada, three in California, one in Hawaii, and one in Minnesota. An additional industrial bank, Nelnet Bank, began operations in November of 2020. Square Financial was approved in March and has not opened for business.

[28] Security Savings Bank, Henderson, Nevada, failed in February 2009, and Advanta Bank Corporation, Draper, Utah, failed in March 2010.

[29] In each case, the institution pursued a voluntary transaction that led to termination of the respective institution's industrial bank charter. One institution converted to a commercial bank charter and continues to operate, one merged and the resultant bank continues to operate, and two terminated deposit insurance following voluntary liquidations. Such transactions generally result from proprietary strategic determinations by the institutions and their parent companies or investors.

[30] In March of 2020, the FDIC approved the deposit insurance applications of Nelnet Bank and Square Financial. Square Financial has not yet commenced operations.

[31] Decisions to withdraw an application are made at the discretion of the organizers and can be attributed to a variety of reasons. In some cases, an application is withdrawn and then refiled after changes are incorporated into the proposal. In such cases, the new application is reviewed by the FDIC without prejudice. In other cases, the applicant may, for strategic reasons, determine that pursuing an insured industrial bank charter is not in the organizers' best interests.

D. Supervision

Because industrial banks are insured State nonmember banks, they are subject to the FDIC's Rules and Regulations, as well as other provisions of law, including restrictions under the Federal Reserve Act governing transactions with affiliates,[32] anti-tying provisions of the BHCA,[33] and insider lending regulations. Industrial banks are also subject to regular examination, including examinations focused on safety and soundness, Bank Secrecy Act and Anti-Money Laundering compliance, consumer protection including Community Reinvestment Act (CRA) compliance, information technology (IT), and trust services, as appropriate. Pursuant to section 10(b)(4) of the FDI Act, the FDIC has the authority to examine the affairs of any industrial bank affiliate, including the parent company, as may be necessary to determine the relationship between the institution and the affiliate, and the effect of such relationship on the depository institution.[34]

In addition, under section 38A of the FDI Act, as amended by the Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),[35] the FDIC is required to impose a requirement on companies that directly or indirectly own or control an industrial bank to serve as a source of financial strength for that institution.[36] In addition, subsection (d) of section 38A of the FDI Act provides explicit statutory authority for the appropriate Federal banking agency to require reports from a controlling company to assess the ability of the company to comply with the source of strength requirement, and to enforce compliance by such company.[37]

Consistent with section 38A and other authorities under the FDI Act, the FDIC has historically required capital and liquidity maintenance agreements (CALMAs)[38] and other written agreements between the FDIC and controlling parties of industrial banks as well as the imposition of prudential conditions when approving or non-objecting to certain filings involving an industrial bank. Such written agreements provide required commitments for the parent company to provide financial resources and a means for the FDIC to pursue formal enforcement action under sections 8 and 50 of the FDI Act[39] should a party fail to comply with the agreements.

E. GAO and OIG Reports

Beginning in 2004, the FDIC Office of Inspector General (OIG) conducted two evaluations and the Government Accountability Office (GAO) conducted a statutorily mandated study regarding the FDIC's supervision of industrial banks, including its use of prudential conditions.[40] An OIG evaluation published in 2004 focused on whether industrial banks posed greater risk to the DIF than other financial institutions, and reviewed the FDIC's supervisory approach in identifying and mitigating material risks posed to those institutions by their parent companies. A July 2006 OIG evaluation reviewed the FDIC's process for reviewing and approving industrial bank applications for deposit insurance and monitoring conditions imposed with respect to industrial bank business plans. A September 2005 GAO study cited several risks posed to banks operating in a holding company structure, including adverse intercompany transactions, operations risk, and reputation risk. The GAO study also discussed concerns about the FDIC's ability to protect an industrial bank from those risks as effectively as the Federal consolidated supervisory approach under the BHCA.[41]

These reports acknowledged the FDIC's supervisory actions to ensure the independence and safety and soundness of commercially owned industrial banks. The reports further acknowledged the FDIC's authorities to protect an industrial bank from the risks posed by its parent company and affiliates. These authorities include the FDIC's authority to conduct examinations, impose conditions on and enter into written agreements with an industrial bank parent company, terminate an industrial bank's deposit insurance, enter into written agreements during the acquisition of an insured depository institution, and to pursue enforcement actions.

F. FDIC Moratorium and Other Agency Actions

In 2005, Wal-Mart Bank's application for Federal deposit insurance drew extensive public attention to the industrial bank charter. The FDIC received more than 13,800 comment letters regarding Wal-Mart's proposal. Most of the commenters were opposed to the application. Commenters also raised broader concerns about industrial banks, including the risk posed to the DIF by industrial banks owned by parent companies that are not subject to Federal consolidated supervision. Similar concerns were expressed by witnesses during three days of public hearings held by the FDIC in the spring of 2006 concerning the Wal-Mart application. Also in 2006, The Home Depot filed a change in control notice in connection with its proposed acquisition of EnerBank, a Utah-chartered industrial bank. The FDIC received approximately 830 comment letters regarding the notice, almost all of which expressed opposition to the proposed acquisition. Ultimately, the Wal-Mart application and The Home Depot's notice were withdrawn.

To evaluate the concerns and issues raised with respect to the Wal-Mart and The Home Depot filings and industrial banks generally, on July 28, 2006, the FDIC imposed a six-month moratorium on FDIC action with respect to deposit insurance applications and change in control notices involving industrial banks.[42] The FDIC suspended agency action in order to further evaluate (i) industry developments; (ii) the various issues, facts, and arguments raised with respect to the industrial bank industry; (iii) whether there were emerging safety and soundness issues or policy issues involving industrial banks or other risks to the DIF; and (iv) whether statutory, regulatory, or policy changes should be made in the FDIC's oversight of industrial banks in order to protect the DIF or important Congressional objectives.[43]

In connection with this moratorium, on August 23, 2006, the FDIC published a notice and request for comment on a wide range of issues concerning industrial banks.[44] The FDIC received

[32] *See* 12 U.S.C. 1828(j)(1)(A).

[33] For purposes of section 106 of the BHCA, an industrial bank is treated as a ''bank'' and is subject to the anti-tying restrictions therein. *See* 12 U.S.C. 1843(f)(1).

[34] 12 U.S.C. 1820(b)(4).

[35] Public Law 111–203, 124 Stat. 1376 (July 21, 2010).

[36] 12 U.S.C. 1831*o*–1(b).

[37] *See* 12 U.S.C. 1831*o*–1(d).

[38] When the FDIC has required a CALMA, the capital levels required generally have exceeded the average thresholds required of community banks, due to the risks involved in the business plans of many industrial banks.

[39] *See* 12 U.S.C. 1818 and 1831*aa*.

[40] *See* OIG Evaluation 04–048, *The Division of Supervision and Consumer Protection's Approach for Supervising Limited-Charter Depository Institutions* (2004), available at *https://www.fdicig.gov/reports04/04-048.pdf;* OIG Evaluation 06–014, *The FDIC's Industrial Loan Company Deposit Insurance Application Process* (2006), available at *https://www.fdicig.gov/reports06/06-014.pdf;* U.S. Gov't Accountability Office, GAO–05–621, *Industrial Loan Corporations: Recent Asset Growth and Commercial Interest Highlight Differences in Regulatory Authority* (Sept. 2005), available at *https://www.gao.gov/products/GAO-05-621(GAO-05-621).*

[41] GAO–05–621.

[42] *See* Moratorium on Certain Industrial Loan Company Applications and Notices, 71 FR 43482 (Aug. 1, 2006).

[43] *Id.* at 43483.

[44] *See* Industrial Loan Companies and Industrial Banks, 71 FR 49456 (Aug. 23, 2006). The Notice included questions concerning the current risk

over 12,600 comment letters in response to the notice.[45] The substantive comments related to the risk profile of the industrial bank industry, concerns over the mixing of banking and commerce, the FDIC's practices when making determinations in industrial bank applications and notices, whether commercial ownership of industrial banks should be allowed, and perceived needs for supervisory change.

The moratorium was effective through January 31, 2007, at which time the FDIC extended the moratorium one additional year for deposit insurance applications and change in control notices for industrial banks that would be owned by commercial companies.[46] The moratorium was not applicable to industrial banks to be owned by financial companies.

G. 2007 Notice of Proposed Rulemaking (NPR)—Part 354

In addition to extending the moratorium for one year with respect to commercial parent companies, the FDIC published for comment a proposed rule designed to strengthen the FDIC's consideration of applications and notices for industrial banks to be controlled by financial companies not subject to Federal consolidated bank supervision, identified as part 354 (2007 NPR).[47] The 2007 NPR would have imposed requirements on applications for deposit insurance, merger applications, and notices for change in control that would result in an industrial bank becoming a subsidiary of a company engaged solely in financial activities that is not subject to Federal consolidated bank supervision by either the FRB or the then-existing Office of Thrift Supervision (OTS). The rule would have established safeguards to assess the parent company's continuing ability to serve as a source of strength for the insured industrial bank, and to identify and respond to problems or risks that may develop in the company or its subsidiaries.

Similar to this final rule, the 2007 NPR would have required a parent company to enter into a written agreement with the FDIC containing required commitments related to the examination of, and reporting and recordkeeping by, the industrial bank, the parent company, and its affiliates. The majority of commenters did not oppose these requirements, noting the FDIC already has authority to collect such information under section 10(b)(4) of the FDI Act.[48] Many commenters, however, objected to limiting parent company representation on the industrial bank subsidiary's board of directors to 25 percent, and argued instead for requiring that a majority of directors be independent. The majority of commenters stated that the FDIC should not impose capital requirement commitments as contemplated in the 2007 NPR on commercial parents of industrial banks because a one-size-fits all regulatory approach to capital requirements would not be appropriate due to the idiosyncratic business models and operations of such parent companies.

Though the 2007 NPR did not affect industrial banks that would be controlled by companies engaged in commercial activities, several commenters addressed the distinction between industrial banks owned by financial and nonfinancial companies. Two commenters contended that the FDIC lacked authority to draw a distinction between financial and nonfinancial industrial bank owners absent a change in law. Several commenters argued that drawing such a distinction would essentially repeal the exception of industrial banks from the definition of ''bank'' in the BHCA. There was little consensus among commenters as to whether commercially owned industrial banks pose unique safety and soundness issues.

The FDIC did not finalize the 2007 NPR. Although multiple factors contributed to the FDIC's decision to not advance a final rule, the most significant factor was the onset of two interconnected and overlapping crises: the financial crisis of 2008–09, and the banking crisis from 2008 to 2013.[49] With the advent of the crises, applications to form *de novo* insured institutions, or to acquire existing institutions, declined significantly, including with respect to industrial banks.

H. Dodd-Frank Act and Industrial Banks

As discussed above and in reaction to the 2008–09 financial crisis, the Dodd-Frank Act amended the FDI Act by adding section 38A.[50] Under section 38A, for any insured depository institution that is not a subsidiary of a BHC or SLHC, the appropriate Federal banking agency for the insured depository institution must require any company that directly or indirectly controls such institution to serve as a source of financial strength for the institution.[51]

Through the Dodd-Frank Act, Congress also imposed a three-year moratorium on the FDIC's approval of deposit insurance applications for industrial banks that were owned or controlled by a commercial firm.[52] The Dodd-Frank Act moratorium also applied to the FDIC's non-objection to any change in control of an industrial bank that would place the institution under the control of a commercial firm.[53] The moratorium expired in July 2013, without any further action by Congress.

In addition, the Dodd-Frank Act directed the GAO to conduct a study of the implications of removing all exceptions from the definition of ''bank'' under the BHCA. The GAO report was published in January of 2012.[54] This report examined the number and general characteristics of

profile of the industrial bank industry, safety and soundness issues uniquely associated with ownership of such institutions, the FDIC's practice with respect to evaluating and making determinations on industrial bank applications and notices, whether a distinction should be made when the industrial bank is owned by an entity that is commercial in nature, and the adequacy of the FDIC's supervisory approach with respect to industrial banks.

[45] Approximately 12,485 comments on the notice were generated either supporting or opposing the proposed industrial bank to be owned by Wal-Mart or the proposed acquisition of Enerbank, also an industrial bank, by The Home Depot. The remaining comment letters were sent by individuals, law firms, community banks, financial services trade associations, existing and proposed industrial banks or their parent companies, the Conference of State Bank Supervisors, and two members of Congress.

[46] *See* Moratorium on Certain Industrial Bank Applications and Notices, 72 FR 5290 (Feb. 5, 2007).

[47] *See* Industrial Bank Subsidiaries of Financial Companies 72 FR 5217 (Feb. 5, 2007); *see also https://www.fdic.gov/news/news/press/2007/pr07007.html.*

[48] *See* 12 U.S.C. 1820(b)(4).

[49] *See Crisis and Response, An FDIC History, 2008–2013,* available at *https://www.fdic.gov/bank/historical/crisis/.* The financial crisis in 2008 and 2009 threatened large financial institutions of all kinds, both inside and outside the traditional banking system, and thus endangered the financial system itself. Second, a banking crisis, accompanied by a swiftly increasing number of both troubled and failed insured depository institutions, began in 2008 and continued until 2013.

[50] *See* 12 U.S.C. 1831*o*–1.

[51] 12 U.S.C. 1831*o*–1(b). This amendment also requires the appropriate Federal banking agency for a BHC or SLHC to require the BHC or SLHC to serve as a source of financial strength for any subsidiary of the BHC or SLHC that is a depository institution. 12 U.S.C. 1831*o*–1(a).

[52] Public Law 111–203, title VI, section 603(a), 124 Stat. 1597 (2010). Section 603(a) also imposed a moratorium on FDIC action on deposit insurance applications by credit card banks and trust banks owned or controlled by a commercial firm. The Dodd-Frank Act defined a ''commercial firm'' for this purpose as a company that derives less than 15 percent of its annual gross revenues from activities that are financial in nature, as defined in section 4(k) of the BHCA (12 U.S.C. 1843(k)), or from ownership or control of depository institutions.

[53] *Id.*

[54] *See* U.S. Government Accountability Office, GAO–12–160, *Characteristics and Regulation of Exempt Institutions and the Implications of Removing the Exemptions* (Jan. 2012), available at *https://www.gao.gov/products/GAO-12-160.*

exempt institutions, the Federal regulatory system for such institutions, and potential implications of subjecting the holding companies of such institutions to BHCA requirements. The GAO report noted that the industrial bank industry experienced significant asset growth in the 2000s and, during this time, the profile of industrial banks changed: Rather than representing a class of small, limited-purpose institutions, industrial banks became a diverse group of insured institutions with a variety of business lines.[55] Ultimately, the GAO found that Federal regulation of the exempt institutions' parent companies varied, noting that FDIC officials interviewed in connection with the study indicated that supervision of exempt institutions was adequate, but also noted the added benefit of Federal consolidated supervision. Finally, data examined by the GAO suggested that removing the BHCA exceptions would likely have a limited impact on the overall credit market, chiefly because the overall market share of exempt institutions was, at the time of the study, small.[56]

III. The Proposed Rule

On March 31, 2020, the FDIC published a notice of proposed rulemaking (NPR or proposal) to establish a supervisory framework for industrial banks and their parent companies that are not subject to Federal consolidated supervision.[57] The proposed rule required certain conditions, commitments, and restrictions for each deposit insurance application approval, non-objection to a change in control notice, and merger application approval that would result in an industrial bank becoming a subsidiary of a company not subject to consolidated supervision by the FRB. The proposal required such a Covered Company to enter into one or more written agreements with the FDIC and the industrial bank subsidiary. The commitments included:

- Furnishing an initial listing, with annual updates, of the Covered Company's subsidiaries.
- Consenting to FDIC examination of the Covered Company and its subsidiaries.
- Submitting an annual report on the Covered Company and its subsidiaries, and such other reports as requested.
- Maintaining such records as the FDIC deemed necessary.
- Causing an independent annual audit of each industrial bank.
- Limiting the Covered Company's representation on the industrial bank's board of directors or managers (board), as the case may be, to 25 percent.
- Maintaining the industrial bank's capital and liquidity at such levels as deemed appropriate and take other action necessary to provide the industrial bank with a resource for additional capital or liquidity.
- Entering into a tax allocation agreement.[58]

The proposal also set forth the FDIC's authority to require, as an additional commitment, a contingency plan that, among other items, provides a strategy for the orderly disposition of the industrial bank without the need for the appointment of a receiver or conservator.

Recently, a number of companies have considered options for providing financial products and services by establishing an industrial bank subsidiary. Many companies have publicly noted the benefits of deposit insurance and establishing a deposit-taking institution. Although many interested parties operate business models focused on traditional community bank products and services, others operate unique business models, some of which are focused on innovative technologies and strategies, including newer business models employed by fintech firms that utilize novel or unproven products or processes.

Some of the companies recently exploring an industrial bank charter engage in commercial activities or have diversified business operations and activities that would not otherwise be permissible for BHCs under the BHCA and applicable regulations. Given the continuing interest in the establishment of industrial banks, particularly with regard to proposed institutions that plan to implement specialty or limited purpose business models, including those focused on innovative technologies, the FDIC believes a rule is appropriate to provide necessary transparency for market participants. Through this final rule, the FDIC is formalizing its framework to supervise industrial banks and mitigate risk to the DIF that may otherwise be presented in the absence of Federal consolidated supervision of an industrial bank and its parent company.

The FDIC has the authority to issue rules to carry out the provisions of the FDI Act,[59] including rules to ensure the safety and soundness of industrial banks and to protect the DIF. Moreover, as the only agency with the power to grant or terminate deposit insurance, the FDIC has a unique responsibility for the safety and soundness of all insured institutions.[60] In granting deposit insurance, the FDIC must consider the factors in section 6 of the FDI Act;[61] these factors generally focus on the safety and soundness of the proposed institution and any risk it may pose to the DIF. The FDIC is also authorized to permit or deny various transactions by State nonmember banks, including merger and change in bank control transactions, based to a large extent on safety and soundness considerations and on its assessment of the risk to the DIF.[62]

The FDIC has the responsibility to consider filings based on statutory criteria and make decisions. Following the publication of the proposed rule, the FDIC approved two deposit insurance applications, by Square Financial and Nelnet, to create *de novo* industrial banks, the first such approvals since 2008. The FDIC determined that the applications satisfied the seven statutory factors under section 6 of the FDI Act, and the FDIC's approval of deposit insurance for these industrial banks fulfilled the Agency's statutory responsibility. As part of both approvals, the FDIC required the industrial banks and their parent companies to enter into CALMAs and Parent Company Agreements to protect the industrial bank and address potential risks to the DIF.

The FDIC invited comment on all aspects of the March 2020 proposal, including questions posed by the Agency. The comment period for the proposed rule ended on July 1, 2020.[63]

[55] *Id.* at 13.

[56] The GAO did not recommend repeal of the exemption.

[57] 85 FR 17771 (Mar. 31, 2020).

[58] *See* proposed § 354.4(a)(1) through (8).

[59] ''[T]he Corporation . . . shall have power . . . [t]o prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this chapter or of any other law which it has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).'' 12 U.S.C. 1819(a)(Tenth).

[60] *See* 12 U.S.C. 1815, 1818(a).

[61] Such factors are the financial history and condition of the depository institution, the adequacy of the depository institution's capital structure, the future earnings prospects of the depository institution, the general character and fitness of the management of the depository institution, the risk presented by such depository institution to the DIF, the convenience and needs of the community to be served by such depository institution, and whether the depository institution's corporate powers are consistent with the purposes of the FDI Act. *See* 12 U.S.C. 1816.

[62] *See* 12 U.S.C. 1817(j), 1828(c), and 1828(d).

[63] Given the disruptions caused by the COVID–19 global pandemic, the FDIC announced on May 27,

The FDIC received 29 comments from industry group/trade associations, insured depository institutions, consumer and public interest groups, State banking regulator(s), law firms, a member of Congress, academics, and other interested parties.[64] In addition, the FDIC received three letters related to the subject matter considered in the proposed rule prior to the formal comment period. The FDIC is now finalizing the proposed rule, with changes based on public comments, as described in detail below.

IV. Discussion of General Comments and Final Rule

A. General Comments

Many commenters were supportive of the FDIC's overall effort to provide certainty, clarity, and transparency to the supervisory framework for the parent companies and affiliates of industrial banks. A number of commenters were generally supportive of the industrial bank charter citing the benefits of charter choice, increased competition, and the provision of financial services. These commenters asserted the charter poses no increased risk to the DIF. In their view, the parent companies serve as an important source of strength and governance for the subsidiary industrial bank. They asserted that in times of stress, a diversified parent may be in a better position to provide capital support to a bank subsidiary than a BHC whose assets consist almost entirely of the bank subsidiary. These commenters also argued that an industrial bank benefits from its business relationship with the parent, for example, through marketing support and fewer start-up costs. State regulators stated that the joint supervisory approach to supervising industrial banks with the FDIC has been effective, and industrial banks with commercial parents do not present an outsized safety and soundness risk.

Comments submitted by bank trade associations, consumer groups, and academics were generally critical of the proposed rule and expressed a range of concerns, which are discussed below.

1. Banking and Commerce

Commenters' criticism of the industrial bank charter, and by extension the proposed rule, is focused, in part, on the mixing of banking and commerce through the commercial ownership of an industrial bank. The main argument is that commercial ownership of an industrial bank disregards the policy of separation of banking and commerce embodied in the BHCA[65] and raises risk to the DIF as a result of a lack of Federal consolidated supervision over the commercial parent company.

Although Federal banking regulation has historically advanced a policy of separating banking and commerce, there is an express Congressional exception of industrial banks from the BHCA's restrictions on commercial affiliations.[66] The CEBA exception does not limit eligible parent companies to those engaged in financial activities. The FDIC's responsibility is to implement the law as it exists today. Whether commercial firms should continue to be able to own industrial banks is a policy decision for Congress to make.

Some commenters requested that the FDIC impose a new moratorium on deposit insurance applications involving industrial banks to allow for legislative action. Certain commenters argued that a moratorium, or a delay in the rulemaking more generally, was important in light of the current economic stress and uncertainty caused by the COVID–19 pandemic. The purpose of this final rule is to ensure adequate oversight of industrial banks owned by financial and commercial companies. Additional moratoria or delays in processing and considering applications are outside the scope of this rulemaking and would be inconsistent with the express Congressional exception of industrial banks from the BHCA's restrictions on commercial affiliations and the FDIC's statutory obligations to receive and process applications related to industrial banks.

These commenters also argued that allowing commercial firms and industrial banks to combine could potentially lead to conflicts of interest in the lending process and undue concentrations of economic power—concerns they contend underlie the general prohibition against the mixing of commerce and banking in the BHCA. As noted above, the decision to allow commercial firms to own industrial banks was a decision made by Congress. Industrial banks are restricted from making favorable loans to their affiliates by sections 23A and 23B of the Federal Reserve Act, which quantitatively and qualitatively limit transactions between an industrial bank and its affiliates.[67] Furthermore, section 23B of the Federal Reserve Act requires that any transaction between a bank and its affiliates must be ''on terms and under circumstances, including credit standards, that are substantially the same, or at least as favorable to [the] bank or its subsidiary as those prevailing at the time for comparable transactions'' with unaffiliated companies.[68] All covered transactions between an industrial bank and its affiliates must be on terms and conditions that are consistent with safe and sound banking practices.[69]

Commenters' competition concerns were based on the possibility that large commercial or technology firms will acquire industrial banks and lead to commercial and financial conglomerates with concentrated and excessive economic power. These commenters were concerned that the FDIC will not adequately consider the anti-trust implications of commercial and financial conglomerates. The FDIC recognizes that there is a possibility that large and complex companies may seek to acquire an industrial bank as emerging technologies and other trends are leading to changes in the provision of banking services. The FDIC has discretion to evaluate the competitive effects of such proposals when considering a deposit insurance application, specifically the statutory factors of the risk to the DIF and the convenience and needs of the community to be served, in order to ensure the market for the provision of

2020, that it would extend the comment period from June 1, 2020, to July 1, 2020, to allow interested parties additional time to analyze the proposal and prepare comments.

[64] On March 15, 2020, bank trade groups, and consumer and civil rights groups sent a letter to the FDIC urging the agency not to approve deposit insurance applications submitted by industrial banks until the NPR is finalized. *See https://bpi.com/consumer-civil-rights-groups-industry-urge-fdic-halt-approval-of-industrial-bank-applications-close-ilc-loopholes-first/*. On July 29, 2020, some of the same groups sent a letter to Congress requesting a three-year moratorium on industrial bank licensing applications. *See https://bpi.com/banking-and-consumer-groups-call-on-congress-to-close-ilc-loophole/*.

[65] *See* Federal Reserve Bank of San Francisco, Economic Letter 1998–21, The Separation of Banking and Commerce (July 3, 1998), available at *https://www.frbsf.org/economic-research/publications/economic-letter/1998/july/separation-banking-commerce/*.

[66] The legislative history of the CEBA offers no explanation of why this exception was adopted. While the industrial bank exception was included in the Senate version of the Act, the House version omitted it. The Conference report does not shed much light:

INDUSTRIAL LOAN COMPANY EXEMPTION SECTION 2(C) (2) (H) OF THE BANK HOLDING COMPANY ACT

The Senate amendment exempts from the definition of ''bank'' certain industrial banks; industrial loan companies, or other similar institutions. The House recedes to the Senate.

Conference Report to accompany H.R. 27—Competitive Equality Banking Act of 1987 (July 31, 1987), at 121.

[67] 12 U.S.C. 371c(a)(1), 371c–1(a)(1); *see also* 12 U.S.C. 1828(j).

[68] 12 U.S.C. 371c–1(b).

[69] 12 U.S.C. 371c(a)(4).

banking services remains competitive and safe and sound.[70] Moreover, the FDIC must consider the anticompetitive effects of a transaction when it is evaluating a notice under the Change in Bank Control Act (CBCA) or an application under the Bank Merger Act.[71] Recognizing that the business models proposed by industrial banks are evolving (*e.g.,* the increasing interplay of services between the bank and its nonfinancial affiliates), the FDIC is issuing this rule in order to help ensure the safety and soundness of industrial banks that become subsidiaries of Covered Companies.

2. Lack of Federal Consolidated Supervision

Many commenters that were critical of the proposed rule also argued that the potential future expansion of banks operating under the CEBA exception threatens the Federal safety net because the FDIC lacks the statutory tools to adequately examine and supervise industrial banks and their parents and affiliates. These commenters noted for instance the many ecommerce affiliate relationships of a large, overseas parent company. The FDIC sought comment on whether the commitments requiring examination and reporting included in the proposed rule were the best approach to gain transparency and identify any potential risk to the industrial banks. A number of commenters argued that the eight commitments in the FDIC's proposed rule ''fail to achieve parity with the regime of consolidated supervision required for BHCs.'' Elements they viewed as lacking included consolidated capital and liquidity standards for the Covered Company, including both the industrial bank and all affiliated entities under common ownership, examination for compliance with the Volcker Rule requirements, sections 23A and 23B, and provisions in the Gramm-Leach-Bliley Act (GLBA)[72] on data safeguards and privacy of customer information. Such commenters also argued that the FDIC does not have the authority to conduct full-scope examinations across any and all affiliates, including the parent company, in their own right. Several commenters suggested that the FDIC ask Congress to transfer the supervision of parent companies of industrial banks to the FRB to conduct consolidated supervision.

As discussed in the proposed rule, the FDIC has both the authority and the capacity to effectively regulate industrial banks and their parent companies, and this rule strengthens the FDIC's supervision. The FDIC uses its supervisory authorities to mitigate the risks posed to insured depository institutions whose parent companies are not subject to consolidated supervision. In considering applications for deposit insurance and mergers, as well as change in control notices, the FDIC uses prudential conditions, as needed, to ensure sufficient autonomy and insulation of the insured depository institution from its parent and affiliates. The FDIC also requires CALMAs, which generally exceed the minimum capital requirements for traditional community banks, and other written agreements between the FDIC and controlling parties of industrial banks. These agreements are enforceable under sections 8 and 50 of the FDI Act. In addition, under section 38A of the FDI Act, the FDIC is required to impose a requirement on companies that directly or indirectly own or control an industrial bank to serve as a source of financial strength for that institution.[73] Subsection (d) of section 38A of the FDI Act also provides explicit statutory authority for the appropriate Federal banking agency to require reports from a controlling company to assess the ability of the company to comply with the source of strength requirement, and to enforce compliance by such company.[74] These prudential conditions and requirements will be embodied in written agreements consistent with the framework established by this final rule.

In addition, an important focus of the FDIC's examination and supervision program is evaluating and mitigating risk to insured depository institutions from affiliates. This includes examining the insured depository institution for compliance with laws and regulations, including affiliate transaction limits and capital maintenance.[75] The examination reviews envisioned under this final rule provide the basis and opportunity to more fully evaluate the institution's affiliate relationships. As noted above, most conflict situations affecting banks and their affiliates can be mitigated through the supervisory process and application of the restrictions in sections 23A and 23B of the Federal Reserve Act and need not pose excessive risk to the bank or the banking system.

The rule also strengthens the FDIC supervisory framework in the area of contingency planning. This rule allows the FDIC to impose a contingency plan requirement, as needed, which will lead the FDIC, as well as the Covered Company and its subsidiary industrial bank, to a better understanding of the interdependencies, operational risks, and other circumstances or events that could create safety and soundness concerns for the insured industrial bank and attendant risk to the DIF. When imposed, this additional commitment will provide for recovery actions that address any financial or operational stress that may threaten the industrial bank.

Finally, the FDIC's oversight and enforcement power extends to the parent or affiliates of any industrial bank whose activities affect that bank, further protecting the industrial bank from risky activities of affiliates.[76]

The FDIC has not found that industrial banks pose unique safety and soundness concerns based on the activities of the parent organization. Industrial banks are subject to all of the same restrictions and requirements, regulatory oversight, and safety and soundness exams as any other kind of insured depository institution. As such, the risks posed are substantially similar to those of all other charter types. A number of commenters noted that two industrial banks failed during the recent financial crisis. While these failed institutions were owned by parent companies not subject to Federal consolidated supervision, the failures were not the result of factors related to the industrial bank charter, as further discussed below.

Certain commenters also observed that several large corporate owners of industrial banks experienced stress during the 2008–09 financial crisis. In some cases, the parent organizations ultimately filed bankruptcy, while others pursued strategies to resolve the stress, including through access to government programs intended to alleviate the effects of the crisis within the financial services sector. These programs included the FDIC's Temporary Liquidity Guarantee Program (TLGP) and the Troubled Asset Relief Program (TARP) administered by the Department of the Treasury. Desired access to these programs contributed to several companies pursuing conversions of an industrial bank to a commercial bank, which required approval of the

[70] As part of its considerations, the FDIC may also seek the views of other Federal agencies.

[71] *See* 12 U.S.C. 1817(j)(7)(A), (B); 1828(c)(5).

[72] Financial Services Modernization Act of 1999, Public Law 106–102, 113 Stat. 1338 (1999).

[73] 12 U.S.C. 1831*o*–1(b).

[74] *See* 12 U.S.C. 1831*o*–1(d).

[75] *See Report to the Congress and the Financial Stability Oversight Council Pursuant to Section 620 of the Dodd-Frank Act* (Sept. 2016). The 2016 joint report evaluated the risks of bank activities and affiliations, as required by section 620 of the Dodd-Frank Act.

[76] *See* 12 U.S.C. 1820(b) and 1820(b)(4)(A).

parent company to become a BHC subject to regulation and supervision by the FRB.

However, it is important to note that each institution or company described in the comments was engaged in activities permissible for all Federal and State banks, BHCs, or financial holding companies, as evidenced by the ability to gain approval for the conversions to commercial banks and BHCs. Further, the types and degree of stress were also experienced by many other insured depository institutions and banking companies, some of which also sought participation in TLGP and/or TARP, failed, or pursued transactions to restructure the organization, merge, or raise capital to alleviate stress or avert failure. As such, the circumstances involving the companies highlighted in the comments were not dissimilar to those facing other banking companies, including companies subject to Federal consolidated supervision.

3. Consumer Protection Risks

Commenters opposed to the proposed rule also argued that the growth in industrial banks poses broader consumer protection risks. They asserted that the parent companies of industrial banks are not subject to Federal financial privacy and information security requirements and the absence of these requirements creates risk for customers of the industrial banks, whether or not they also obtain products and services from the parent companies or nonfinancial affiliates. BHCs and SLHCs are limited in their use of consumer financial data for commercial purposes. These commenters asserted that industrial bank parent companies should be subject to the same restrictions.

While there is no general Federal regime covering how nonpublic personal information held in the U.S. may be disclosed or how it must be secured, financial institutions, including industrial banks, are subject to Title V of the GLBA.[77] The GLBA and its implementing regulations, cited by some commenters, impose a range of privacy obligations on financial institutions, including industrial banks, that exceed those imposed on most other business types. Specifically, the GLBA and implementing rules (1) impose limitations on information sharing between financial institutions and nonaffiliated third parties and require disclosure of information sharing policies and practices to consumers and customers, and (2) require financial institutions to develop, implement, and maintain comprehensive information security programs.[78] However, businesses that are not subject to the GLBA are not free from all privacy and data protection requirements. There are other Federal laws that address privacy and data protection that may apply to a Covered Company and its affiliates as well as financial institutions. As one example, the Fair Credit Reporting Act (FCRA) establishes standards for collection and permissible purposes for dissemination of data by consumer reporting agencies and obligations on furnishers of information. As another example, section 5 of the Federal Trade Commission Act (FTC Act) provides broad authority to the FTC to pursue unfair and deceptive trade acts and practices against most businesses arising from privacy and data protection practices.[79] Further, the Dodd-Frank Act granted the Consumer Financial Protection Bureau (CFPB) broad authority to enforce unfair, deceptive, and abusive acts and practices related to consumer financial products and services that may cover the activities of a Covered Company and its affiliates.[80] Adding to the complexity at the Federal level, States have enacted laws governing the collection, use, protection, and disclosure of personal information. Many States have consumer protection and privacy laws as well as laws similar to the FTC Act that prohibit unfair or deceptive business practices.[81]

In the absence of a single, comprehensive Federal law regulating privacy and the collection use, processing, disclosure, security, and disposal of personal information, the FDIC will continue to supervise and examine industrial banks and enforce compliance with the GLBA and all other Federal consumer protection laws and regulations. In addition, and in response to the concerns expressed by commenters that a Covered Company and affiliates that are not engaged in financial services would not be covered by the GLBA, the FDIC is including in the final rule a requirement for a Covered Company to inform the FDIC about its systems for protecting the security, confidentiality, and integrity of consumer and nonpublic personal information, as part of the Covered Company's commitment to submit an annual report to the FDIC. This reporting will provide the FDIC with a better understanding across all of a Covered Company's financial and nonfinancial affiliates and activities and provide the means to monitor for potential consumer protection risks.

The FDIC will evaluate privacy and data protection issues presented by a deposit insurance application, a change in control notice, or a merger application involving an industrial bank on a case-by-case basis. When appropriate, the FDIC may consider imposing heightened requirements specific to industrial banks and Covered Companies regarding the use of consumer financial data for commercial purposes. Decisions will be based on the size and complexity of the industrial bank, the nature and scope of its activities, the sensitivity of any customer information at issue, and the unique facts and circumstances of the filing before the FDIC.

Certain commenters expressed concerns about industrial bank and nonbank partnerships that the commenters believe have led to increased predatory lending.[82] A major

[77] Subtitle A of Title V of the GLBA, captioned ''Disclosure of Nonpublic Personal Information,'' limits the instances in which a financial institution may disclose nonpublic personal information about a consumer to nonaffiliated third parties, and requires a financial institution to disclose certain information sharing practices. ''Nonpublic personal information'' is defined to mean any personally identifiable financial information that is provided by the consumer to the financial institution; results from any transaction with the consumer or service performed for the consumer; or is otherwise obtained by the financial institution, but which is not ''publicly available information.'' *See* 15 U.S.C. 6801–09.

[78] *See, e.g.,* 12 CFR part 332, Privacy of Consumer Financial Information.

[79] The FTC is empowered to seek injunctive relief and voluntary consent decrees that can result in FTC oversight of a company for a period of up to 20 years and may carry financial penalties for future violations. The Federal banking agencies enforce section 5 as to financial institutions under their supervision.

[80] The CFPB has been active in the privacy area and recently issued an advanced notice of proposed rulemaking (ANPR) seeking input on the financial records access right granted by section 1033 of the Dodd-Frank Act pertaining to consumer information in the control or possession of consumer financial services providers. 85 FR 71003 (Nov. 6, 2020).

[81] For example, the California Consumer Privacy Act of 2018 serves as an omnibus law governing privacy rights. It was recently amended and expanded by the California Privacy Rights Act. 2020 Cal. Legis. Serv. Prop. 24 (2020). The Massachusetts Data Security Regulation includes State-level general data protection security requirements. 201 Mass. Code Regs. 17.00 *et seq.* The Act to Protect the Privacy of Online Consumer Information enacted by the Maine legislature is another example of a State law governing the privacy of consumer information. 35–A M.R.S. section 9301. These examples underscore the fact that although a uniform Federal law has not been enacted, privacy is increasingly in the forefront of the public and legislators alike.

[82] The concern appears to arise from perceived abuses of longstanding statutory authority rather than the proposed rule. Congress enacted section 27 of the FDI Act, 12 U.S.C. 1831d, in 1980, permitting State banks to charge interest at the rate permitted by the law of the State where the bank is located,

Continued

component of the FDIC's mission is to ensure that financial institutions treat consumers and depositors fairly, and operate in compliance with Federal consumer protection, anti-discrimination, and community reinvestment laws. The FDIC addresses the problem of predatory lending by taking supervisory action, by encouraging and assisting banks to serve all sectors of their community, and by providing consumers with information to help make informed financial decisions.

4. Justification for the Proposed Rule

Several commenters raised concerns that the FDIC offered insufficient justification for the proposed rule. In particular, commenters argued that the proposed rule did not set out a sufficient factual, legal, or policy basis for proposed rule, and that there was insufficient discussion of the risks, public policy concerns, and statutory public interest factors concerning industrial banks.

The Administrative Procedure Act (APA) [83] requires a notice of proposed rulemaking to provide sufficient factual detail and rationale for the rule to permit interested parties to comment meaningfully.[84]

The proposed rule set out a clear description of the basis for the proposed rule. The NPR discussed the history of industrial banks in the U.S., both generally and in the context of controversies over the past two decades. The NPR acknowledged the arguments raised by critics, reviewing the potential risks inherent in approving and supervising industrial banks. These include concerns over the mixing of banking and commerce as well as the risk to the DIF posed by the lack of Federal consolidated supervision of parent companies. The NPR also set out the justification for the proposed rule, including the need to codify and clarify supervisory expectations for industrial banks and the importance of imposing commitments on parent companies to ensure the parent company can serve as a source of strength for its subsidiary industrial bank. The NPR provided sufficient discussion of the factual, legal, and policy considerations for the proposed rule, such that interested parties were able to—and did—submit a variety of comments on a number of issues raised in and by the proposed rule.

A few commenters argued that the NPR did not adequately discuss the FDIC's decision to allow industrial bank applications in the wake of both the temporary moratorium the FDIC put into place from 2006 to 2008 and the subsequent 2010 to 2013 moratorium Congress enacted through the Dodd-Frank Act. To reverse the industrial bank moratorium without additional details, these commenters suggest, is arbitrary and capricious and violates the APA.

As the Supreme Court has noted, ''Agencies are free to change their existing policies as long as they provide a reasoned explanation for the change.'' [85] The explanation need not prove that ''the reasons for the new policy are better than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency believes it to be better, which the conscious change of course adequately indicates.'' [86] Specifically, ''the agency must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.'' [87]

The NPR provided a reasoned discussion of the decision to move forward with the proposed rule, as discussed above. Furthermore, the NPR also explained why it was proceeding now when it chose not to do so with the 2007 rulemaking. The NPR noted that the FDIC's decision not to go forward with the 2007 proposal was rooted in a number of factors. More specifically, while the FDIC considered the comments received on the 2007 rulemaking, industry conditions and other factors had the effect of reducing organizer interest in establishing new industrial banks. Most notably, interest in organizing new institutions of all charter types, including industrial banks, diminished given the deteriorating economic and market conditions identified as early as mid-2007. In part, this diminished interest reflected the market uncertainty, restricted liquidity, reduced availability of capital, and difficult interest rate environment experienced by all institutions across the banking industry. In addition, interest in industrial bank charters was affected by changes in certain State laws that limited the ability to form or acquire industrial banks, and was reflected in the number of industrial banks seeking conversions to commercial bank charters. The factors, collectively, argued against moving forward with a final rule, as did the opportunity to closely monitor the performance of industrial banks during a period of significant stress.[88]

Overall, the performance and condition of industrial banks during the most recent banking crises was generally consistent with other FDIC-insured institutions based on assigned supervisory ratings, which consider each institution's unique business model, complexity, and risk profile. From the beginning of 2009 through 2011, on average, industrial banks were assigned composite and component ratings similar to other charter types with regard to safety and soundness, consumer protection, and the CRA. Further, the portfolio of industrial banks reflected similar proportions of institutions that were composite rated 3, 4, or 5 [89] during the crisis, as well as a similar rate of failure as the portfolio of traditional community banks.

Looking more specifically at financial performance, and notwithstanding their general focus on nontraditional business models, industrial banks have experienced, by most key measures of performance and condition, comparable results to other insured institutions. Industrial banks tend to maintain higher levels of capital and generate higher earnings. At year-ends 2009 through 2011, industrial banks maintained a median tier 1 leverage capital (T1LC) ratio between 13.1 percent and 15.4 percent, whereas, other insured institutions maintained a median T1LC ratio between 9.3 percent and 9.7 percent. As of June 30, 2020, the median T1LC ratio for industrial banks was 14.6

even if that rate exceeds the rate permitted by the law of the borrower's State. Federal court precedents reviewing this authority have upheld this practice for decades. Section 27 also permits States to opt out of its coverage by adopting a law, or certifying that the voters of the State have voted in favor of a provision which states explicitly that the State does not want section 27 to apply with respect to loans made in such State.

[83] 5 U.S.C. 551 *et seq.*

[84] 5 U.S.C. 553(b); *see, e.g., National Lifeline Association* v. *F.C.C.,* 921 F.3d 1105, 1115 (D.C. Cir. 2019).

[85] *Encino Motorcars, LLC* v. *Navarro,* 136 S.Ct. 2117, 2126 (2016).

[86] *F.C.C.* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009).

[87] *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29, 43 (1983).

[88] As noted above in section II.H of this Supplementary Information section, after 2013, the moratorium imposed by Congress in the Dodd-Frank Act expired by its terms and was not renewed.

[89] Each financial institution is assigned composite and component ratings for safety and soundness under the Uniform Financial Institutions Rating System (UFIRS). Under the UFIRS, composite ratings are based on an evaluation and rating of six essential components of an institution's financial condition and operations: Adequacy of capital, the quality of assets, the capability of management, the quality and level of earnings, the adequacy of liquidity, and the sensitivity to market risk. Evaluations of the components take into consideration the institution's size and sophistication, the nature and complexity of its activities, and its risk profile.

percent as compared to 10.3 percent for other insured institutions.[90]

Similarly, industrial banks reported a median return on average assets (ROAA) ratio of between 0.6 percent and 2.5 percent at year-ends 2009 through 2011, versus a median ROAA ratio of between 0.4 percent and 0.7 percent for other insured institutions. The median ROAA ratio for industrial banks and other insured institutions as of June 30, 2020, were 1.1 percent and 0.9 percent, respectively.[91]

The capital and earnings ratios for industrial banks is reflective of the higher degree of risk inherent in their business models. The specialty nature of most industrial bank business models, particularly when compared to traditional community banks (which constitute a large proportion of all other insured institutions), have contributed to the maintenance of higher levels of capital and earnings, generally. Additionally, since the mid-2000s, approved filings for industrial banks have largely included CALMAs that required higher capital requirements than other insured institutions.

Further, industrial banks have been assigned examination ratings for the capital and earnings components that, on average, were very similar to those of other insured institutions. This generally indicates that industrial banks have implemented and maintained appropriate risk management practices that, given financial condition and performance, have adequately compensated for the risks inherent in the business models.

When compared to other insured institutions, industrial banks typically maintain a lower volume of liquid assets and rely more heavy on non-core liabilities to fund longer-term earning assets. As a result, while still satisfactory, the liquidity posture for industrial banks was considered slightly lower both during and subsequent to the 2008–09 financial crisis. In the FDIC's experience, asset quality has been comparable between industrial banks and other insured institutions, indicating both a manageable volume of past due loans or other problem assets, as well as satisfactory risk management practices. In addition, management practices for industrial banks also have been in line with that of other insured institutions, both during and after the financial crisis.

Despite the above, it is important to note that some industrial banks experienced stress during the 2008–09 financial crisis. The circumstances experienced by industrial banks during the crisis were not dissimilar from the circumstances confronting other insured institutions and were not the result of factors related to the industrial bank charter. In general, the FDIC's supervision helped to isolate the insured industrial bank from the stress of the parent organization, which helped in managing the potential risk to the industrial bank and the DIF.

Nevertheless, as discussed above, several commenters noted the participation of industrial banks or their parent organizations in various government programs established during the crisis. There were six industrial banks (or their parent companies) among the more than 110 companies that accessed the debt guarantee program component of the TLGP, including several owned by parent companies organized as thrift holding companies. However, it is important to note that establishment of the TLGP was prompted by the unexpected and precipitous market conditions brought on by the related housing, financial, and banking crises that occurred over the period of 2007 through 2011.[92] These conditions impacted even the largest banking companies in the U.S. and abroad.[93]

Some comments noted the crisis-era conversions of industrial banks and their parent organizations to commercial banks and BHCs. Of the conversions noted by commenters, the majority involved industrial banks that were fundamentally sound, based on the most recent examinations prior to the conversions. The same held with respect to the respective parent companies, one of which converted from a thrift holding company to a bank holding company during the crisis. In each case, the FRB determined that approval of the BHC applications was warranted, based on evaluation of the relevant statutory factors and regulatory requirements. Given these circumstances, the conversions and participation in crisis-related programs reflected responses to the broader conditions in all segments of the economy, including the financial sector.

Finally, industrial banks did not experience a disproportionate rate of failures when compared to other types of institutions, and there have not been any industrial bank failures since 2010.[94]

This experience with supervision in the industrial banking space informs the present rulemaking. The heightened source of strength requirements, along with other regulatory requirements included in the final rule, are examples of how the FDIC is applying lessons learned in this rulemaking process.

Some commenters also questioned why the proposed rule applies to industrial banks that would be owned by financial and commercial companies, when the FDIC's 2007 rulemaking was limited to financial companies and the FDIC's extended moratorium applied only to commercial companies. As the FDIC discussed in the proposed rule, commenters on the 2007 rulemaking observed that the FDIC lacked authority to draw a distinction between financial and nonfinancial industrial bank owners absent a change in law. The FDIC agrees that the CEBA exception does not distinguish between commercial and financial parent companies of industrial banks in excluding them from the definition of ''bank.'' As discussed above, the FDIC's supervisory experience has shown that a distinction based on the activities of the parent company is not warranted in this final rule.

Most crucial, though, is the fact that the most recent of the moratoriums commenters reference expired in 2013. In the ensuing years, Congress has declined to act with regard to industrial banks. The FDIC, as all agencies, is charged with enacting the laws as they exist today. Therefore, given that the rule is permissible under the statute, that it is sufficiently supported by the reasoning presented in the NPR and this Supplementary Information section, and that there is a clear connection between the facts at hand and the choice to proceed, the rule is a permissible change in policy.

The FDIC believes that the final rule, which is largely consistent with the

[90] FDIC Call Report Data, June 30, 2020.

[91] *Id.*

[92] As has been noted in *Crisis and Response,* the housing bubble that developed during the early 2000s burst in 2007, bringing the financial system ''relatively quickly to the brink of collapse'' and resulted in the worst economic dislocation in decades. Large losses in economic output and large declines in economic indicators were evident, including with respect to steep declines in employment and household wealth, among other indicators. The related banking crisis was also severe, with almost 500 institutions failing during the period of 2008 through 2013. In addition, between March 2008 and December 2009, the number of problem banks rose from 90 to over 700, and ultimately peaked at almost 900 in early 2011. This level constituted nearly 12 percent of all FDIC-insured institutions. *See* note 49.

[93] Some of the industrial banks that were owned by thrift holding companies had sister financial institutions that were also FDIC-insured. Ownership of an industrial bank was not the driving force that caused or allowed these entities to issue guaranteed debt through the TLGP. Rather, the companies could have accessed the program simply by virtue of being a thrift holding company or owning an FDIC-insured institution.

[94] As noted above, Security Savings Bank, Henderson, Nevada, failed in February 2009, and Advanta Bank Corporation, Draper, Utah, failed in March 2010.

proposed rule, is an appropriate response to safety and soundness issues surrounding financial and commercial ownership of industrial banks under existing law. Specific suggestions from commenters on the regulation itself are described below in the appropriate sections of this preamble on the specific sections of the rule.

B. Description of the Final Rule

1. Section 354.1—Scope

This section of the proposed rule described the industrial banks and parent companies that would be subject to the rule. The proposed rule applied to industrial banks that, after the effective date, become subsidiaries of companies that are Covered Companies, as such term is defined in § 354.2. Industrial bank subsidiaries of companies that are subject to Federal consolidated supervision by the FRB would not have been covered by the proposed rule. An industrial bank that, on or before the effective date, is a subsidiary of a company that is not subject to Federal consolidated supervision by the FRB (a grandfathered industrial bank) generally would not have been covered by the proposed rule.[95] A grandfathered industrial bank could become subject to the proposed rule following a grant of deposit insurance, change in control, or merger occurring on or after the effective date in which the resulting institution is an industrial bank that is a subsidiary of a Covered Company. Thus, a grandfathered industrial bank would have been subject to the proposed rule, as would its parent company that is not subject to Federal consolidated supervision, if such a parent company acquired control of the grandfathered industrial bank pursuant to a grant of deposit insurance after the effective date, a change in bank control transaction that closes after the effective date, or if the grandfathered industrial bank is the surviving institution in a merger transaction that closes after the effective date. Industrial banks that are not subsidiaries of a company, for example, those wholly owned by one or more individuals, would not have been subject to the proposed rule.

The FDIC specifically sought comment on whether to apply the rule prospectively or to all industrial banks that, as of the effective date, are a subsidiary of a parent company that is not subject to Federal consolidated supervision by the FRB. A number of commenters expressed the view that the rule, if adopted, should apply only prospectively; that is, to industrial banks that become a subsidiary of a parent company that is a Covered Company as of the effective date of the rule, noting that existing industrial banks and their parents are subject to most of the standards of the proposed rule. Three commenters requested that the rule apply to a parent company and its subsidiary industrial bank if the parent company became a Covered Company after either the date of FDIC's notice announcing the FDIC board meeting at which the proposed rule was considered or the date of the FDIC board meeting, rather than the effective date.

Some commenters supported the retroactive application of the proposed rule to all industrial banks that, as of the effective date, are a subsidiary of a parent that is not subject to Federal consolidated supervision. These commenters asserted that otherwise existing industrial banks would enjoy a regulatory advantage over new industrial banks. They also argued that retroactive application would enhance the FDIC's ability to perform its supervisory responsibilities. However, other commenters expressed concerns that applying the rule retroactively would violate the APA as parent companies of existing industrial banks had no opportunity to consider these requirements in their decision to establish or acquire an industrial bank. These commenters also argued that existing industrial banks have a record of sound operations under the existing supervisory framework.

In addition, one commenter recommended that the final rule apply to grandfathered industrial banks that undergo certain *other* changes, such as when the industrial bank parent company acquires a subsidiary engaged in nonfinancial activities, or the industrial bank parent company engages in new nonfinancial activities. The final rule operates prospectively on the basis of a filing that would result in an industrial bank becoming a subsidiary of a company not subject to consolidated Federal supervision. In contrast, the suggested triggers, as described, would be applied to existing industrial banks and their parent companies, would not be related to a filing, and would not necessarily result in any impact to the industrial bank. Should such an impact be identified, the FDIC would rely on its supervisory or enforcement authority as the appropriate means to ensure the safe and sound operation of the industrial bank. Further, the commenter's suggestion would be difficult to administer because the recommended triggers for applicability of the rule—engaging in ''nonfinancial'' activities—historically has proven difficult to define and measure. Accordingly, the final rule does not adopt the commenter's recommendation. However, the FDIC will continue to apply all appropriate supervisory and enforcement authorities to existing industrial banks and their parent organizations, as appropriate, to ensure the continued safety and soundness of the industrial bank.

The FDIC also sought comment on whether the rule should apply to industrial banks that do not have a parent company or to industrial banks that are controlled by an individual rather than a company. Several commenters asserted that it was not necessary to apply the requirements of the proposed rule to industrial banks without parent companies (or that are controlled by an individual rather than a company), in part because industrial banks themselves are subject to the same regulatory treatment as State nonmember banks. By contrast, several commenters asserted the requirements should be applied to such industrial banks and/or also to an individual that controls an industrial bank. The FDIC believes that industrial banks that are owned by individuals or do not have a parent company generally do not present the same potential risks as industrial banks owned by companies. Industrial banks that are controlled by a parent company, whether engaged in commercial or financial activities, that are not subject to Federal consolidated supervision present the risks that are addressed by the safeguards in this final rule. In addition, applying the rule to industrial banks that have a parent company and requiring that the parent company provide capital support is consistent with the statutory requirements of section 38A of the FDI Act.

After considering these comments regarding the scope of the proposed rule, the final rule will apply only prospectively as of the effective date of the rule, to industrial banks that become subsidiaries of companies that are Covered Companies.[96] The FDIC must

[95] Although generally not subject to the rule, grandfathered industrial banks and their parent companies that are not subject to Federal consolidated supervision by the FRB will remain subject to FDIC supervision, including but not limited to examinations and capital requirements. *See also* the discussion of the reservation of authority in section IV.B.6. of this Supplementary Information.

[96] The proposed rule divided the rule into two temporal states, on or before the effective date on the one hand, and after the effective date on the other hand. The final rule amends the dividing line so that the relevant timeframes would be before the effective date and on or after the effective date. This change was made because the effective date is

consider the requirements of the APA and the Riegle Community Development and Regulatory Improvement Act (RCDRIA) in determining the effective date of new regulations, and both of these statutory schemes generally provide for an effective date that follows the date on which the regulations are published in final form. Thus, the final rule will be effective on April 1, 2021.[97]

The FDIC also sought comment on whether an individual that controls the parent company of an industrial bank should be responsible for the maintenance of the industrial bank's capital and liquidity at or above FDIC-specified levels and for causing the parent company to comply with the written agreements, commitments, and restrictions imposed on the industrial bank. The FDIC also asked whether an individual who is the dominant shareholder of a Covered Company should be required to commit to the maintenance of appropriate capital and liquidity levels. As discussed below, § 354.3(b) of the proposed rule provided that the FDIC may condition a grant of deposit insurance, issuance of a non-objection to a change in control, or approval of a merger on an individual who is a controlling shareholder of a Covered Company joining as a party to the written agreements required under the rule. In such cases where the FDIC would require the controlling shareholder to join as a party, the controlling shareholder would be required to cause the Covered Company to fulfill its obligations under the written agreements through the voting of shares, or otherwise. These obligations include, among other things, maintaining each subsidiary industrial bank's capital and liquidity at such levels as the FDIC deems necessary for the safe and sound operation of the industrial bank (commitment (7)).

Several commenters criticized the controlling shareholder requirement. Some commenters argued that an individual who controls or owns a parent company should not be held personally liable for maintaining the industrial bank's capital or liquidity. These commenters expressed concern that such a requirement would make it more difficult to attract shareholders and capital. As noted above, in cases where the FDIC would require a person that controls a Covered Company to join as a party, such person would be required to vote their shares or take such other appropriate actions to cause the Covered Company to fulfill its obligations under the written agreements. The obligation to maintain the subsidiary industrial bank's capital and liquidity rests with the Covered Company.

Other commenters noted that the parent company already commits in the CALMA to provide support and were concerned that requiring the parent company's shareholders to also provide a guarantee of support will drive away investors. These commenters, however, were not opposed to a requirement for the controlling shareholder to commit to vote his or her shares to comply with the CALMA. One commenter noted that the Office of the Comptroller of the Currency (OCC) may impose certain commitments on the controlling shareholder related to the ownership of shares and how the controlling shareholder exercises shareholder rights.

Several commenters supported the approach of imposing certain conditions at the level of the Covered Company's controlling shareholder as necessary to ensure the safety and soundness of the subsidiary industrial bank. Some commenters asserted that the FDIC should require the dominant shareholders of a parent company to maintain appropriate levels of capital and liquidity. Another commenter argued that the choice of ownership structure should not relieve an individual from source of strength and other obligations.

The FDIC believes that in order to ensure that a Covered Company serves as a continuing source of financial strength to the subsidiary industrial bank, the FDIC may exercise its supervisory discretion to require a controlling, or dominant, shareholder of a Covered Company to join as a party to the written agreements required under the rule. An individual with controlling ownership has a direct and effective means by which to influence the major decisions of the Covered Company by voting shares or by exercising an influence as a member of the Covered Company's board of directors. Accordingly, the FDIC is finalizing this requirement in § 354.3(b) as proposed. As discussed in the proposed rule, in such cases where FDIC would require the controlling shareholder to join as a party, the controlling shareholder would be required to cause the Covered Company to fulfill its obligations under the written agreements through voting shares, or otherwise, including to maintain the capital and liquidity levels of the subsidiary industrial bank at or above FDIC-specified levels. The FDIC intends to make such a determination on a case-by-case basis and will consider the business plan, capital structure, risk profile, and business activities of the Covered Company.

2. Section 354.2—Definitions

This section of the proposed rule listed the definitions that applied to part 354. Terms that were not defined in the proposed rule that are defined in section 3 of the FDI Act had the meanings given in section 3 of the FDI Act.[98]

The term ''control'' was defined to mean the power, directly or indirectly, to direct the management or policies of a company or to vote 25 percent or more of any class of voting securities of a company and specifically would have included the rebuttable presumption of control at 12 CFR 303.82(b)(1) and the presumptions of acting in concert at 12 CFR 303.82(b)(2)[99] in the same manner and to the same extent as if they applied to an acquisition of securities of a company instead of a ''covered institution.'' These definitions are nearly the same as the definitions of ''control'' in the CBCA[100] and the FDIC's regulations implementing the CBCA[101] except that they would have broadened the term to apply to control of a company and not solely insured depository institutions so that the definition can accurately describe the relationship between the parent company of an industrial bank and any of its nonbank subsidiaries, which also would be affiliates of the industrial bank.

Two commenters suggested that the rule should incorporate the definition of control used in the BHCA and its implementing regulations. One trade group commenter argued that such an approach would lead to consistency in the treatment of parent companies of insured depository institutions. An industrial bank commenter suggested that aligning the proposed rule's definition of control with the BHCA and the FRB's regulatory framework[102] would create a more uniform system that would make it easier for investors

commonly understood to be the date upon which a rule is effective, not the day before a rule would take effect.

[97] During the period before the effective date of the final rule, the FDIC will consider pending deposit insurance applications, change in control notices, and merger applications for industrial banks on a case-by-case basis and impose conditions and requirements as appropriate and that are consistent with current practice.

[98] 12 U.S.C. 1813.

[99] The proposed rule erroneously referred to the presumptions set forth at 12 CFR 303.83(b)(1) and (2). The final rule corrects that technical error to correctly refer to § 303.82(b)(1) and (2).

[100] 12 U.S.C. 1817(j)(8)(B).

[101] 12 CFR 303.80 through 303.88.

[102] 85 FR 12398 (Mar. 2, 2020); *see also* Regulation Y—Frequently Asked Questions, available at *https://www.federalreserve.gov/supervisionreg/reg-y-faqs.htm.*

to balance their investment decisions with the regulatory implications of certain levels of investment.

The FDIC has considered these comments and has decided to retain the definition used in the proposed rule. First, the definition of control proposed in the NPR is consistent with the definition of control that the FDIC uses in other contexts, namely changes in bank control. The FDIC in 2015 amended its filing requirements and processing procedures for notices filed under the CBCA with respect to proposed acquisitions of State nonmember banks and certain parent companies thereof.[103] Among other things, the FDIC's CBCA implementing regulations adopted the best practices of the related regulations of the OCC and FRB, rendering more consistent the CBCA implementing regulations of the Federal banking agencies.

Second, the FDIC is not the Federal banking agency responsible for implementing and interpreting the BHCA and has not developed precedent for the implementation of the BHCA. In adopting the CBCA implementing regulations, the FDIC noted that it found the logic of the FRB's interpretations regarding control under the BHCA useful in analyzing fact patterns under the CBCA, but did not adopt the FRB's interpretations, preferring instead to review each case based on the facts and circumstances presented.[104]

The term ''Covered Company'' meant any company that is not subject to Federal consolidated supervision by the FRB and that, directly or indirectly, controls an industrial bank (i) as a result of a change in bank control under section 7(j) of the FDI Act,[105] (ii) as a result of a merger transaction pursuant to section 18(c) of the FDI Act,[106] or (iii) that is granted deposit insurance under section 6 of the FDI Act,[107] in each case after the effective date of the rule.

Under these provisions, a company would control an industrial bank if the company would have the power, directly or indirectly, (i) to vote 25 percent or more of any class of voting shares of any industrial bank or any company that controls the industrial bank (*i.e.,* a parent company), or (ii) to direct the management or policies of any industrial bank or any parent company. In addition, the FDIC presumes that a company would have the power to direct the management or policies of any industrial bank or any parent company if the company will, directly or indirectly, own, control, or hold with power to vote at least 10 percent of any class of voting securities of any industrial bank or any parent company, and either the industrial bank's shares or the parent company's shares are registered under section 12 of the Securities Exchange Act of 1934, or no other person (including a company) will own, control, or hold with power to vote a greater percentage of any class of voting securities. If two or more companies, not acting in concert, will each have the same percentage, each such company will have control. As noted above, control of an industrial bank can be indirect. For example, company A may control company B, which in turn may control company C which may control an industrial bank. Company A and company B would each have indirect control of the industrial bank, and company C would have direct control. As a result, the industrial bank would be a subsidiary of companies A, B, and C.

One commenter observed that the Supplementary Information for the proposed rule characterized BHCs and SLHCs as generally prohibited from engaging in commercial activities.[108] This commenter noted that grandfathered unitary SLHCs are permitted to engage in certain ''grandfathered'' activities, which may include commercial activities and requested that the FDIC clarify its position with respect to grandfathered unitary SLHCs. The FDIC recognizes that certain grandfathered unitary SLHCs may be able to engage in commercial activities. Further, as the FDIC intends to apply the final rule prospectively, a grandfathered unitary SLHC that is subject to Federal consolidated supervision would not be subject to the final rule.

In response to question 5 in the NPR, commenters were split on whether to require a Covered Company to form an intermediate holding company from which to conduct its financial activities.

One commenter suggested that there would be limited benefit to requiring a Covered Company that conducts activities other than financial activities to conduct some or all of its financial activities (including ownership and control of an industrial bank) through an intermediate holding company, observing that any potential benefit could be significantly outweighed by the complexity and cost of implementing an intermediate holding company structure, and may only serve to organizationally distance the bank from the primary source of strength, most commonly the top tier parent company. Another commenter strongly opposed the possible requirement, arguing that in many cases it would not make sense to create a corporate structure in service of an industrial bank that is a small part of the overall activities or assets of a Covered Company.

Another commenter argued that complex diversified Covered Companies that conduct nonfinancial activities must be required to structure their financial activities under an intermediate holding company so that the intermediate holding company may be subjected to enhanced supervision.

The final rule will not require a Covered Company that conducts activities other than financial activities to conduct some or all of its financial activities (including ownership and control of an industrial bank) through an intermediate holding company.[109] The FDIC believes that such a structure is not required to adequately supervise industrial banks and their parent companies.

The final rule includes the definition of Covered Company as proposed with one revision: The proposed rule defined a Covered Company as a company that is not subject to Federal consolidated supervision by the FRB and that controls an industrial bank as a result of the non-objection to a change in bank control, or approval of a merger transaction or deposit insurance *after* the effective date. The final rule applies where such a non-objection or approval occurs *on or after* the effective date. This revision is not a change in FDIC policy, but rather a recognition that the effective date is commonly understood to be the date upon which a rule is effective.[110]

The FDIC received no comment on a number of definitions: The terms ''FDI Act,'' ''filing,'' ''FRB,'' ''industrial bank,'' and ''senior executive officer.'' The final rule adopts these terms as proposed.

In the NPR, the FDIC requested comment on whether the rule should include other types of nonbank banks, in addition to industrial banks. One commenter stated that all bank and financial service companies, including industrial banks and other institutions that have been excluded from the BHCA definition of bank (such as credit card

[103] 80 FR 65889 (Oct. 28, 2015). The FDIC received no comments on its approach.

[104] 80 FR 65889, 65893.

[105] 12 U.S.C. 1817(j).

[106] 12 U.S.C. 1828(c).

[107] 12 U.S.C. 1816.

[108] *See* 85 FR at 17772–73.

[109] The FDIC may consider requiring an intermediate holding company in the case of a Covered Company that is not located in the United States and presents unique circumstances.

[110] *See also supra* note 96.

and limited purpose trust banks) should be subject to a level playing field, including subjecting the parent company to Federal consolidated supervision. Another commenter stated that it was not necessary to include credit card banks and trust companies in the scope of the rule because they are limited purpose institutions. Another commenter suggested that the rule may be appropriate for other kinds of banks whose owners are not subject to the BHCA, but cautioned that there may be unique issues related to those charters that should be considered before extending the rule to such institutions.

The FDIC has decided not to extend the scope of the final rule at this time to other types of banking institutions that have parent companies not subject to Federal consolidated supervision. These other types of institutions (credit card banks and limited purpose trust companies) operate under a limited purpose charter, which narrows the range of services they may offer. As a result, the FDIC's experience indicates these charter types have generally not presented the broad issues as presented by industrial banks.

Commenters also suggested additional terms for which definitions would be useful. The FDIC believes that the final rule is sufficiently clear that such additional definitions were not determined to be necessary, although section IV.B.5. of this Supplementary Information section provides examples of what will and will not be considered a ''material change'' to a business plan requiring prior FDIC approval.

3. Section 354.3—Written Agreement

This section of the proposed rule prohibited any industrial bank from becoming a subsidiary of a Covered Company unless the Covered Company enters into one or more written agreements with the FDIC and its subsidiary industrial bank. In such agreements, the Covered Company would make certain required commitments to the FDIC and the industrial bank, including those listed in paragraphs (a)(1) through (8) of § 354.4, the restrictions in § 354.5, and such other provisions as the FDIC may deem appropriate in the particular circumstances. When two or more Covered Companies will control (as the term ''control'' is defined in § 354.2), directly or indirectly, the industrial bank, each such Covered Company would be required to execute such written agreement(s). This circumstance could occur, for example, (i) when two or more Covered Companies will each have the power to vote 10 percent or more of the voting stock of an industrial bank or of a company that controls an industrial bank, the stock of which is registered under section 12 of the Securities Exchange Act of 1934, or (ii) when one Covered Company will control another Covered Company that directly controls an industrial bank. Section 354.3(a) of the final rule is unchanged from the proposal.

As discussed above, proposed § 354.3(b) allowed the FDIC, in its sole discretion, to require, as a condition to the approval of or non-objection to a filing, that a controlling shareholder of a Covered Company join as a party to any written agreement required in § 354.3. In such cases, the controlling shareholder would be required to cause the Covered Company to fulfill its obligations under the written agreement, through the voting of shares, or otherwise.

In addition to the written agreements, commitments, and restrictions of the final rule, the FDIC will condition an approval of an application or a non-objection to a notice on one or more actions or inactions of the applicant or notificant, as deemed appropriate by the FDIC.[111] The FDIC may enforce conditions imposed in writing in connection with any action on any application, notice, or other request by an industrial bank or a company that controls an industrial bank,[112] so it is not necessary to include provisions regarding conditions in the proposed rule.

4. Section 354.4—Required Commitments and Provisions of Written Agreement

The FDIC historically has included conditions in deposit insurance approval orders for industrial banks that are intended to create a sufficient supervisory structure with respect to a Covered Company. The commitments that the FDIC has required industrial banks and their parent companies to undertake in written agreements have varied on a case-by-case basis, depending on the facts and circumstances and the particular concerns the FDIC has identified during the review of the application materials.

Section 354.4 of the proposed rule required each party to a written agreement to comply with paragraphs (a)(1) through (8). These required commitments are intended to provide the safeguards and protections that the FDIC believes are prudent to impose to maintain the safety and soundness of industrial banks that are controlled by Covered Companies. These required commitments and other provisions are intended to establish a level of information reporting and parent company obligations similar to that which would be in place if the Covered Company were subject to Federal consolidated supervision. The requirements reflect commitments and additional provisions that, for the most part, the FDIC has previously required as a condition of granting deposit insurance to industrial banks. The FDIC proposed to include these required commitments in the rule to provide transparency to current and potential industrial banks, the companies that control them, and the general public.

In order to provide the FDIC with more timely and more complete information about the activities, financial performance and condition, operations, prospects, and risk profile of each Covered Company and its subsidiaries, the proposed rule required that each Covered Company furnish to the FDIC an initial listing, with annual updates, of all of the Covered Company's subsidiaries (commitment (1)); consent to the FDIC's examination of the Covered Company and each of its subsidiaries to monitor compliance with any written agreements, commitments, conditions, and certain provisions of law (commitment (2)); submit to the FDIC an annual report on the Covered Company and its subsidiaries, and such other reports as the FDIC may request (commitment (3)); maintain such records as the FDIC deems necessary to assess the risks to the industrial bank and to the DIF (commitment (4)); and cause an independent audit of each subsidiary industrial bank to be performed annually (commitment (5)).

In the NPR, the FDIC sought comment on whether the proposed commitments requiring examination and reporting serve the supervisory purpose of transparency and identifying any potential risks to the industrial bank and whether there was a better approach for supervising a Covered Company. As discussed above in section IV.A.2. of this Supplementary Information section, a number of commenters were generally critical of the proposed commitments as being inadequate and failing to achieve parity with the regime of consolidated supervision required for BHCs. The FDIC believes that the examination reviews envisioned under the final rule enhance the existing supervisory practices and allow for a more robust evaluation of the industrial bank's affiliate relationships. In addition, the FDIC believes the enhanced reporting

[111] *See* 12 CFR 303.11(a) (''The FDIC may approve, conditionally approve, deny, or not object to a filing after appropriate review and consideration of the record.''). *See* 12 CFR 303.2(bb) for a list of standard conditions.

[112] 12 U.S.C. 1818(b); 1831*aa*(a).

requirements in the final rule are consistent with section 38A(d) of the FDI Act, which provides explicit statutory authority for the FDIC to require reports from a controlling company of an industrial bank to assess the ability of the company to comply with the source of strength requirement, and to enforce compliance by such company.[113] The final rule adopts these commitments as proposed, other than as described below. Implementation of the rule positions the FDIC to better protect the industrial bank from activities of a parent organization that present heightened risk to the organization and the bank and to ensure that the parent company is a continuing source of financial strength.[114]

In response to the concerns expressed by commenters that a Covered Company that is not engaged in financial services would not be covered by the GLBA, the FDIC is revising the commitment in the final rule that a Covered Company submit an annual report to the FDIC (commitment (3)) to include a requirement for a Covered Company to inform the FDIC about its systems for protecting the security, confidentiality, and integrity of consumer and nonpublic personal information. This reporting will provide the FDIC appropriate information across all of a Covered Company's financial and nonfinancial activities to monitor for potential consumer protection risks.

The FDIC also sought comment on whether the commitment and requirements of the rule are appropriately tailored in light of the GLBA's restrictions on the extent to which a Federal banking agency may regulate and supervise a functionally regulated affiliate of an insured depository institution.

Most commenters supported the reporting[115] and examination requirements that enable the FDIC to monitor and evaluate financial and other conditions in the parent organization that are relevant to the industrial bank. One commenter supported carving out functionally regulated entities from the scope of the required commitments in § 354.4 to be consistent with ''jurisdictional boundaries'' contemplated by the GLBA. While functionally regulated financial firms do not raise the types of concerns that commercial firms do with respect to industrial banks, different regulatory supervisors will have different supervisory approaches and will be focused, by design, on the aspects of a business that concern that regulator.[116] The FDIC serves as the regulator for the industrial bank and exercises oversight of the parent company to the extent necessary to ensure the safety and soundness of the industrial bank subsidiary and to protect the DIF. Through examination and reporting, the FDIC will be able to gauge and monitor the operational risks an industrial bank affiliate, whether functionally regulated or unregulated, presents to the industrial bank. The FDIC may take action to prevent or redress an unsafe or unsound practice if action to address that risk when limited to the industrial bank would not effectively protect against the risk.

The FDIC sought comment on whether a Covered Company should be required to disclose to the FDIC certain additional affiliates or portfolio companies of the Covered Company because these affiliates could engage in transactions with, or otherwise impact, the subsidiary industrial bank. One trade association commenter opposed any further extension of the reporting requirement as being burdensome. A number of commenters acknowledged the FDIC's authority to understand affiliate relationships and their impact on the industrial bank, but suggested that the reporting be tailored by including a materiality threshold. Otherwise, these commenters believed the reporting would be burdensome while potentially providing information with no real relevance to the industrial bank.

Other commenters argued that the final rule should require a Covered Company to disclose its affiliates and portfolio companies that could engage in transactions with, or otherwise impact, the subsidiary industrial bank in order to provide the FDIC a complete and transparent picture of the business model. These commenters observed that related entities may impact the financial condition and results of operations of the Covered Company, which may negatively impact its ability to serve as a source of strength for the industrial bank.

The FDIC believes that the relationship of a bank with its affiliated organizations is important to the analysis of the condition of the bank itself. Because of commonality of ownership or management that may exist, transactions with affiliates may not be subject to the same sort of objective analysis that exists in transactions between independent parties. Also, affiliates offer an opportunity to engage in types of business activities that are prohibited to the bank itself yet those activities may affect the condition of the bank. In recognition of the importance of these relationships, the FDIC has been granted authority, under certain conditions to examine affiliates in connection with its examination of a bank to disclose the relationship between the bank and a given affiliate, as well as the effect of that relationship on the bank.[117] The FDIC also has been granted authority to bring enforcement actions against insured State nonmember banks and their institution-affiliated parties.[118] As discussed above in section IV.A.2., industrial banks are subject to these same examination and enforcement authorities as other banks, as well as sections 23A and 23B of the Federal Reserve Act and Regulation W, which govern transactions with affiliates. In addition, section 38A of the FDI Act provides authority for the FDIC to require reports from a company that controls an industrial bank to assess the ability of the company to comply with the source of strength requirement, and to enforce compliance by such company.[119] Section 38A of the FDI Act therefore provides an additional supervisory tool to the FDIC in regulating Covered Companies, including their subsidiaries.

In supervising industrial banks, the FDIC considers each industrial bank's purpose and placement within the organizational structure and tailors reporting and other requirements accordingly. Requiring the disclosure of the Covered Companies' subsidiaries along with the other reporting tools available to the FDIC as discussed above are sufficient and will appropriately cover those affiliates of the industrial bank of most concern to the FDIC. Accordingly, the FDIC is adopting § 354.4(a)(1) as proposed.

[113] *See* 12 U.S.C. 1831*o*–1(d).

[114] *See* 12 U.S.C. 1820(b) and 1820(b)(4)(A).

[115] If the Covered Company is required to submit reports to the Securities and Exchange Commission (SEC), the requirement to submit an annual report may be satisfied through submission of SEC Form 10–K (or equivalent), along with the company's annual audit report and management letter (with management responses), provided that the combination of reports addresses each requirement as stated in the rule. In some cases, it may be necessary or appropriate to also submit evaluations of the Covered Company's internal operations, along with management responses, satisfying the Statement on Standards for Attestation Engagements (SSAE) Number 18, *Report on Controls at a Service Organization Relevant to User Entities' Internal Control over Financial Reporting,* as issued or amended by the Auditing Standards Board, or similar reports or evaluations.

[116] For example, in a situation where a parent company issues securities, the SEC's role and expertise lies in supervising the parent company as an issuer of securities, not in the role of a parent company of an industrial bank.

[117] 12 U.S.C. 1820(b)(4).

[118] 12 U.S.C. 1813(u) and 1818.

[119] *See* 12 U.S.C. 1831*o*–1(d).

In order to limit the extent of each Covered Company's influence over a subsidiary industrial bank, the proposed rule required each Covered Company to commit to limit its representation on the industrial bank's board of directors to 25 percent of the members of the board, or if the bank is organized as a limited liability company and is managed by a board of managers, to 25 percent of the members of the board of managers, or if the bank is organized as a limited liability company and is managed by its members, to 25 percent of managing member interests (commitment (6)). For example, if company A, which has 15 percent representation on the subsidiary industrial bank's board, controls company B, then the companies' representation would be aggregated and limited to no more than 25 percent. Thus, company B's representation would be limited to no more than 10 percent.

The FDIC sought comment on whether this threshold is appropriate. Three commenters argued against any limitation of a Covered Company's representation on the board of a subsidiary industrial bank. These commenters noted the burden in identifying independent director candidates and obtaining the prior approval for candidates associated with a Covered Company. In addition, these commenters argued that the restriction would limit the coordination necessary and appropriate among entities within an organization. One commenter expressed the concern that there could be a negative effect on the remaining directors if an independent director leaves a board. That is, the potential need to eliminate a director associated with a Covered Company in order to comply with the rule on a continuing basis.

One commenter asserted that there may be conflicts between the rule limitation and unspecified State law, while another noted the lack of comparable limitations on other legal structures, creating a distinct difference between Covered Companies and other operating entities. A number of commenters also suggested that relying on the simple majority of independent directors, as has been applied in other instances, has not led to issues or concerns regarding the subsidiary industrial bank.

To address the concerns regarding the limitation, commenters suggested either raising the threshold from 25 percent to one-third, or requiring that a simple majority be independent. While acknowledging the need for some degree of director independence to limit the potential influence from Covered Companies, these commenters noted that the higher threshold may enhance coordination between the industrial bank and Covered Companies. By extension, the increased coordination would enable the Covered Companies to have a better understanding of the industrial bank's obligations. One comment also noted that the FDIC would retain its full enforcement authority should circumstances require action.

The FDIC understands the challenges involved in the selection of directors of insured institutions. However, the prior approval requirement should not substantially interfere in a well-qualified candidate's ability to assume the responsibilities of the position in a timely manner, and thereby to achieve the noted benefits of appropriate coordination between the industrial bank and the Covered Company. As to the possibility that an independent director's departure from a board may result in temporary non-compliance with the established threshold, the FDIC's construction and use of written agreements provides sufficient mechanisms by which compliance can be timely achieved without the extreme consequence of removing other directors or requiring FDIC actions to enforce the commitment.

As to the specific threshold, the FDIC is revising the commitment in the final rule to establish a less than 50 percent threshold, which will maintain a sufficient number of independent directors while addressing a number of the commenters' concerns. In making this change, the FDIC considered the potential numeric challenges that could confront industrial banks whose boards are comprised of a comparatively small number of directors. In addition, the change enables Covered Companies and industrial banks to select director candidates believed to be most qualified to direct and oversee the institution. As such, the change enables Covered Companies and industrial banks to exercise some additional flexibility when selecting directors. Nevertheless, the FDIC retains the authority, as appropriate, to require a higher threshold of director independence.

Finally, one comment requested clarification as to whether officers of the industrial bank would be included within the limitation. In short, if an officer in question is associated with a Covered Company, the individual would be counted against the limitation.

In order to ensure that a subsidiary industrial bank has available to it the resources necessary to maintain sufficient capital and liquidity, the proposed rule required each party to a written agreement to commit to maintain each subsidiary industrial bank's capital and liquidity at such levels as the FDIC deems necessary for the safe and sound operation of the industrial bank, and to take such other actions as the FDIC finds appropriate to provide each subsidiary industrial bank with the resources for additional capital or liquidity (commitment (7)). As discussed above, the FDIC is finalizing § 354.3(b) as proposed, which provides that the FDIC may require the controlling or dominant shareholder of a Covered Company to join as a party to the written agreements required under the rule, including commitment (7). The final rule includes commitment (7) as proposed.

Lastly, the proposed rule required that each Covered Company and its subsidiary industrial bank(s) enter into a tax allocation agreement that expressly recognizes an agency relationship between the Covered Company and the subsidiary industrial bank with respect to tax assets generated by such industrial bank, and that further states that all such tax assets are held in trust by the Covered Company for the benefit of the subsidiary industrial bank and promptly remitted to such industrial bank (commitment (8)). As proposed, a tax allocation agreement would have also provided that the amount and timing of any payments or refunds to the subsidiary industrial bank by the Covered Company should be no less favorable than if the subsidiary industrial bank were a separate taxpayer.

One commenter questioned the FDIC's statutory authority to impose such a requirement. The FDIC has the power to issue rules to carry out the provisions of the FDI Act,[120] including rules to ensure the safety and soundness of industrial banks and to protect the DIF. As the FDIC discussed in the proposed rule, companies and their subsidiaries, including insured depository institutions and their parent companies, will often file a consolidated income tax return. A 1998 interagency policy statement issued by the Federal banking agencies and the U.S. Department of the Treasury, and an addendum thereto [121] (collectively,

[120] ''[T]he Corporation . . . shall have power . . . [t]o prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this chapter or of any other law which it has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).'' 12 U.S.C. 1819(a)(Tenth).

[121] *See* Interagency Policy Statement on Income Tax Allocation in a Holding Company Structure, 63

Continued

Policy Statement), acknowledges this practice, noting that a consolidated group may prepare and file Federal and State income tax returns as a group so long as the interests of any insured depository institution subsidiaries are not prejudiced. Given the potential harm to insured subsidiary institutions, the Policy Statement encourages parent companies and their insured depository institution subsidiaries to enter into written, comprehensive tax allocation agreements, and notes that inconsistent practices regarding tax obligations may be viewed as an unsafe and unsound practice prompting either informal or formal corrective action. The final rule, consistent with the proposed rule, similarly seeks to avoid potential harm to a subsidiary industrial bank by requiring such a written tax allocation agreement. The final rule includes commitment (8) as proposed.

In addition to the eight commitments discussed above, § 354.4(b) of the proposed rule permitted the FDIC to condition the approval of an application or non-objection to a notice on the Covered Company and industrial bank committing to adopt, maintain, and implement an FDIC-approved contingency plan that presents one or more actions to address potential significant financial or operational stress that could threaten the safe and sound operation of the insured industrial bank. The plan also would reflect strategies for the orderly disposition of the industrial bank without the need for the appointment of a receiver or conservator. Such disposition could include, for example, sale of the industrial bank to, or merger with, a third party.

The FDIC received two comments on the contingency plan requirement. One commenter stated that the FDIC should consider size, complexity, interdependencies, and other relevant factors in requiring, reviewing, and approving a contingency plan—similar to the ''living will'' requirements under section 165(d) of the Dodd-Frank Act where the FRB has tiered certain requirements based upon an institution's asset size. This commenter also suggested that the FDIC formalize these considerations in the final rule. The other commenter stated that, while dissolution requirements may be appropriate for large complex institutions that pose a risk to the DIF, smaller banks do not pose the same risks nor require the same level of complex planning. According to this commenter, the cost of contingency planning would outweigh its benefit for smaller institutions. This commenter also stated that, at a minimum, any contingency planning requirement should be no more stringent than the requirement for other FDIC-insured intuitions of the same size.

As discussed in the NPR, a contingency plan commitment would only be required in certain circumstances based upon the facts and circumstances presented, and after taking into consideration size, complexity, interdependencies, and other relevant factors. The final rule preserves the FDIC's supervisory discretion to tailor the contents of any contingency plan to a specific Covered Company and its insured industrial bank subsidiary. This ability to tailor the requirements of a contingency plan serves to minimize the burdens of developing and implementing such a plan. It should also be noted that contingency plans are not the same as resolution plans under section 165(d) of the Dodd-Frank Act or § 360.10 of the FDIC's Rules and Regulations, and the contents of a contingency plan (if required) would be far less complex. A contingency plan is an explanation of the steps the industrial bank and Covered Company could take to mitigate the impacts of financial and operational stress outside of the receivership process. Finally, the FDIC believes that a contingency plan, when required, may help the FDIC, the Covered Company, and its industrial bank subsidiary to better understand the relevant interdependencies, operational risks, and other circumstances or events that could create safety and soundness concerns and attendant risk to the DIF. Accordingly, the FDIC is finalizing this requirement as proposed.

While the contingency plan is one type of commitment that the FDIC would be able to require of Covered Companies and their industrial bank subsidiaries, there may be other commitments that the FDIC may determine to be appropriate given the business plan, capital levels, or organizational structure of a Covered Company or its subsidiary industrial bank. Section 354.4(c) of the proposed rule provided that the FDIC may require such additional commitments from a Covered Company or controlling shareholder of a Covered Company in addition to those described in § 354.4(a) or (b) in order to ensure the safety and soundness of the industrial bank and reduce potential risk to the DIF.

Several commenters specifically addressed § 354.4(c).[122] One commenter raised concerns that the rule would be applied to Covered Companies or controlling shareholders of existing industrial banks. As discussed above, because the rule is constructed to apply prospectively, parties will become subject to the rule only as the result of (1) the formation of an industrial bank on or after the effective date of the final rule, or (2) a merger transaction or change in control on or after the effective date of the final rule, assuming the institution retains its industrial bank charter.

A second commenter raised concerns that § 354.4(c) vests open-ended authority in the FDIC to change, at any time and for any reason, the obligations of a Covered Company or controlling shareholder. The commenter further suggested that agreements should be negotiated at the outset. Another commenter also suggested that the FDIC should rely on its enforcement authority rather than including additional commitments in the written agreements.

In response to commenters' concerns about the application of this section, the FDIC is removing § 354.4(c) to avoid confusion that the FDIC would unilaterally impose additional commitments (or restrictions). Notwithstanding this deletion, the FDIC retains its general supervision, examination, and enforcement authorities (as reserved by § 354.6) to take any actions beyond the scope of the final rule, including actions to ensure the safe and sound operation of any insured depository institution, including an industrial bank, and further to ensure that a parent of an industrial bank acts as a source of financial strength to that insured institution. For example, the FDIC may require additional, unique commitments from a Covered Company or a controlling shareholder of a Covered Company when the FDIC determines it is necessary to address specific elements of a filing or circumstances related to the filer. Additional commitments may be derived, for instance, from elements of the business model presented, including the nature and scope of activities conducted, the risk profile of the activities, and the complexity of operations. The proposed relationships

FR 64757 (Nov. 23, 1998); Addendum to the Interagency Policy Statement on Income Tax Allocation in a Holding Company Structure, 79 FR 35228 (June 19, 2014). The 2014 Addendum to the Interagency Policy Statement on Income Tax Allocation in a Holding Company Structure also clarifies that all tax allocation agreements are subject to the requirements of section 23B of the Federal Reserve Act, and tax allocation agreements that do not clearly acknowledge that an agency relationship exists may be subject to additional requirements under section 23A of the Federal Reserve Act.

[122] These commenters raised the same or similar concerns with respect to § 354.5(b), which the FDIC also is deleting in the final rule.

and transactions with the parent organization that may impact the industrial bank also could be taken into consideration.

The FDIC also sought comment on whether the rule should include a commitment that the parent company will maintain its own capital at some defined level on a consolidated basis. A number of commenters argued that creating consolidated capital requirements for the parent company would ensure that it is able to serve as a source of strength for its subsidiary industrial bank. Some commenters argued that such capital standards should be comparable to those imposed on BHCs of similar size and systemic significance. These commenters also argued that the absence of a consolidated capital standard for the parent company creates a lower standard of supervision than is imposed by the BHCA. One commenter recommended that such requirements should be greater than the requirements applicable to other FDIC-insured depository institutions due to the enhanced risk of the Covered Company on the industrial bank and the DIF.

By contrast, several commenters argued that applying a capital standard on the parent company itself is not encompassed within the FDIC's statutory mandate to preserve the safety and soundness of insured depository institutions. Other commenters observed that for many industrial bank parent companies, measures of tangible equity are not often the most pertinent indicator of the financial health of the company or its ability to serve as a source of strength. These commenters argued that given the diversity of industrial bank parent company operations, a more tailored approach would be appropriate.

The FDIC does not believe that the final rule should impose capital requirement commitments on Covered Companies because a one-size-fits all regulatory approach to capital requirements would not be appropriate, given the idiosyncratic business models and operations of such parent companies. The FDIC believes that the final rule and its supervisory framework adequately ensure that a parent company of an industrial bank has the ability to serve as a source of strength.

5. Section 354.5—Restrictions on Industrial Bank Subsidiaries of Covered Companies

Section 354.5 of the proposed rule required the FDIC's prior written approval before an industrial bank that is a subsidiary of a Covered Company may take certain actions. These restrictions, like the required commitments discussed above, are generally intended to provide the safeguards and protections that the FDIC believes would be prudent to impose with respect to maintaining the safety and soundness of industrial banks that become controlled by companies that are not subject to Federal consolidated supervision. Accordingly, the proposed rule required prior FDIC approval for the subsidiary industrial bank to take any of five actions set forth in § 354.5(a).

In order to ensure that the industrial bank does not immediately after becoming a subsidiary of a Covered Company engage in high-risk or other inappropriate activities, the subsidiary industrial bank would have been required to obtain the FDIC's prior approval to make a material change in its business plan after becoming a subsidiary of a Covered Company (paragraph (a)(1)). In order to limit the influence of the parent Covered Company, the subsidiary industrial bank would have been required to obtain the FDIC's prior approval to add or replace a member of the board of directors or board of managers or a managing member, as the case may be (paragraph (a)(2)); add or replace a senior executive officer (paragraph (a)(3)); employ a senior executive officer who is associated in any manner with an affiliate of the industrial bank, such as a director, officer, employee, agent, owner, partner, or consultant of the Covered Company or a subsidiary thereof (paragraph (a)(4)); or enter into any contract for material services with the Covered Company or a subsidiary thereof (paragraph (a)(5)). Pursuant to proposed § 354.5(b), the FDIC would have been able to, on a case-by-case basis, impose additional restrictions on the Covered Company or its controlling shareholder if circumstances warrant. The FDIC is adopting revisions to the restrictions in § 354.5(a)(2), (3), and (4) and removing § 354.5(b), as discussed below.

The FDIC sought comment on whether these restrictions should be time-limited. A number of commenters generally argued that the restrictions should only apply during the industrial bank's *de novo* period (*i.e.,* the first three-years of operation). Some commenters suggested that the FDIC should or could apply ongoing restrictions (beyond the *de novo* period) when special circumstances exist. One commenter proposed that the FDIC implement a process to allow an industrial bank to request a waiver of the requirements at the conclusion of the *de novo* period. Two commenters recommended limiting the restrictions to the *de novo* period except for paragraph (a)(4) covering employment of a senior executive officer who is also currently associated with an affiliate of the industrial bank. Most of these commenters were concerned that the ongoing restrictions in these sections created greater burdens on industrial banks than required of non-industrial banks.

By contrast, other commenters argued that these restrictions should be perpetual in duration and viewed them as important safeguards on the actions of a Covered Company with respect to an industrial bank subsidiary. One commenter argued that given the unique and significant risks posed by industrial banks and their parent companies, the restrictions should not be limited to any number of years after an industrial bank becomes a subsidiary of a Covered Company.

The FDIC previously has imposed restrictions similar to those contained in § 354.5 in prior actions on filings involving industrial banks. The agency's experience indicates that there are advantages and disadvantages to imposing such restrictions on a perpetual basis, just as there are advantages and disadvantages to imposing the restrictions on a time-limited basis. The relative advantages and disadvantages vary depending on the nature of the particular restriction. Nevertheless, certain items are believed so directly related to the industrial bank's ongoing safe and sound operation that a perpetual restriction is warranted. As such, the FDIC is adopting the restrictions regarding material changes to business plans, entering into contracts for material services with a Covered Company or its subsidiaries, and employing a senior executive officer that is associated with an affiliate of the industrial bank as proposed, with one exception noted below.

However, having considered commenters' suggestions regarding the restrictions on the appointment of directors (paragraph (a)(2)) and senior executive officers (paragraph (a)(3)), the FDIC is modifying the final rule to apply a three-year period to filings approved by the FDIC for an industrial bank that is a subsidiary of a Covered Company. This modification provides flexibility for industrial banks to timely appoint directors and officers. The FDIC's supervisory efforts and enforcement authorities remain fully accessible if an industrial bank's director or officer selection raises concerns. Further, consistent with § 354.6 of the final rule, the FDIC may impose additional restrictions if appropriate to a particular

filing. Thus, as circumstances warrant, the FDIC may extend the three-year period or impose the restriction on a perpetual basis.

In light of the changes to paragraphs (a)(2) and (3) above, the FDIC is also adopting a revision to the restriction on employment of a senior executive officer who is currently associated with an affiliate of the industrial bank (paragraph (a)(4)). The restriction is modified in the final rule to cover a senior executive officer who is or was during the past three years associated with an affiliate of the industrial bank to prevent evasion of the restriction. As noted above, this restriction is not otherwise modified with respect to its perpetual duration.

As discussed above, proposed § 354.5(b) has been removed to align with the change the FDIC made to § 354.4(c).

Several commenters requested that the FDIC clarify what is meant by a ''material change'' to the industrial bank's business plan that requires the FDIC's written approval prior to effecting such change. Because business plan changes or deviations may alter the facts and circumstances that supported the FDIC's action on a filing in which the business plan condition was imposed, the following generally have been determined to constitute a material change in or deviation from an institution's business plan:

- Increases in financial statement categories or subcategories (such as types of loans, funding, revenue, or capital) of 25 percent or more;
- Introduction of distinctly new or different business strategies or objectives, including products or services, target markets, delivery channels, or business development strategies;
- Changes to the institution's financial strategies, or the acquisition of assets, an operating entity, or the assumption of deposits or other liabilities; or
- Changes in organizational relationships such that the manner in which the institution implements or carries out its business strategies or objectives is impacted.

6. Section 354.6—Reservation of Authority

The FDIC proposed to clarify that it retains the authority to take supervisory or enforcement actions, including actions to address unsafe or unsound practices, or violations of law.

The FDIC has broad supervision, examination and enforcement powers and authorities granted to it by the FDI Act and other laws.[123] The reservation of authority in § 354.6 clarifies that, notwithstanding the final rule, the FDIC retains the authority to exercise those powers, as it would for any insured depository institution where it is the appropriate Federal banking agency, which includes industrial banks. While the final rule establishes certain commitments and restrictions with respect to industrial banks and Covered Companies, § 354.6 recognizes that the FDIC could require industrial banks and their parent companies that are not subject to Federal consolidated supervision by the FRB to enter into written agreements, provide additional commitments, or abide by additional restrictions if necessary to maintain the safety and soundness of the industrial bank. Additionally, the FDIC's powers and authorities may be applied to require written commitments and/or to impose restrictions in the context of a particular industrial bank and its parent to mitigate risk and ensure the safe and sound operation of the insured depository institution, even if not in connection with a filing pursuant to this part.

The FDIC received only one comment that addressed the proposed reservation of authority, noting that the FDIC's use of its discretion in applying the restrictions on industrial banks contained in § 354.5, together with a reservation of its examination authority, would allow for a practical implementation of the FDIC's powers. The FDIC is adopting § 354.6 as proposed. During the period before the effective date of the final rule, the FDIC will consider pending deposit insurance applications, change in control notices, and merger applications for industrial banks on a case-by-case basis and impose conditions and requirements as appropriate and that are consistent with current practice and the FDIC's general examination, supervision, and enforcement authorities.

7. Responses to Additional Questions

In addition to the questions discussed above, the FDIC sought responses to several additional questions. In response to the FDIC's question whether there were additional categories of information that the FDIC should consider in evaluating an industrial bank's ability to meet the convenience and needs of the community to be served, some commenters opposed to the rule expressed concern that the CRA requires modernization or is otherwise inadequate to ensure industrial banks are properly serving the credit needs of the communities in which the industrial bank operates. Two community group commenters went further indicating that the FDIC should not move forward with this rule until CRA assessment area procedures are updated.

In January of 2020, the FDIC joined the OCC in issuing a CRA proposal to modernize CRA regulations.[124] On May 20, 2020, the OCC issued its CRA final rule.[125] The FDIC did not move forward with a final rule following the proposal and continues to enforce its existing CRA regulation.[126] More recently, on September 21, 2020, the FRB issued an ANPR to solicit public input regarding modernizing the FRB's CRA regulatory and supervisory framework.[127] Modernizing CRA regulations applicable to FDIC-supervised institutions is an important endeavor, and the FDIC is considering further rulemaking in this area, which may include seeking additional public input and engaging with the other prudential regulators. For the time being, however, the FDIC will continue to operate under the existing CRA regulations, which contain provisions including public participation in strategic plans and consideration for community development activity in insured institutions' broader State-wide and regional areas.

However, the statutory factor addressing convenience and needs of the community to be served is broader than the CRA. In assessing the statutory factor convenience and needs of the community to be served, the essential considerations are the deposit and credit needs of the community to be served, the nature and extent of the opportunity available to the applicant in that location, and the willingness and ability of the applicant to serve those financial needs.[128] The markets to be served and the economic and competitive conditions within the markets are important to these considerations. The applicant's CRA Plan is an important part of the FDIC's evaluation of the convenience and needs to be served, but it is not the only consideration. The FDIC believes the benefits to finalizing this rule are significant, and formalizing and strengthening FDIC's existing supervisory processes and policies that

[123] *See supra* notes 59–62 and accompanying text.

[124] 85 FR 1204.

[125] 85 FR 34734.

[126] State savings associations will be examined by the FDIC under the CRA regulations of the OCC, 12 CFR part 25 and 12 CFR part 195, as may be amended from time to time.

[127] 85 FR 66410.

[128] *See* Statement of Policy on Applications for Deposit Insurance, 63 FR 44756 (Nov. 20, 1998), *amended by* 67 FR 79276 (Dec. 27, 2002).

apply to parent companies of industrial banks that are not subject to Federal consolidated supervision should proceed even in the absence of a unified interagency rule on CRA.

The FDIC also sought comment on the FDIC's approach to foreign ownership of industrial banks. Some commenters argued that foreign ownership of industrial banks should not be permitted, or if permitted, should be heavily regulated. A commenter argued that the FDIC would not be well positioned to foresee the risks that a might arise for a foreign Covered Company in its home market. Another commenter asserted that the proposed supervisory approach fell short of the FRB's consolidated supervision framework, leaving the FDIC with limited examination authority and therefore unable to adequately monitor foreign companies whose risks might be spread across multiple entities. Another commenter opposed foreign ownership of industrial banks, but suggested that if such arrangements were permitted, further commitments such as a high net stable funding ratio and a prefunded orderly liquidation fund should be required of foreign Covered Companies.

On the other hand, a number of commenters indicated that there was no need to build in additional restrictions specific to foreign Covered Companies. These commenters noted that the FDIC already has robust supervisory authority to address unsafe and unsound conditions impacting insured depository institutions, and that the FDIC's practice of securing additional commitments from foreign parent companies of industrial banks has been effective. Other commenters also argued for flexibility, indicating that determining what additional commitments would be necessary in such instances is a fact-specific inquiry and should be based on the parent company's ability to be a source of strength for the industrial bank.

The final rule does not contain any specific requirements for foreign Covered Companies beyond those to which U.S.-based Covered Companies are subject. The FDIC's supervisory experience with foreign parent companies of industrial banks has shown that retaining the flexibility to secure additional commitments from such entities as needed is an effective approach. Such commitments would be in addition to the substantial requirements a Covered Company is subject to in the written agreements with the FDIC required by the final rule, including examination and reporting requirements, capital maintenance of the industrial bank, and contingency planning. These commitments allow the FDIC to ensure that a Covered Company can and will serve as a source of strength for its industrial bank, and along with the added flexibility to require additional commitments as needed, they are sufficient to address both domestic and foreign Covered Companies.[129]

V. Expected Effects

As previously discussed, the final rule requires or imposes certain conditions, commitments, and restrictions for each deposit insurance application approval, non-objection to a change in control notice, and merger application approval that would result in an industrial bank becoming, pursuant to the rule, a subsidiary of a Covered Company. The final rule requires such Covered Company to enter into one or more written agreements with the FDIC and the industrial bank subsidiary.

A. Overview of Industrial Banks

As of June 30, 2020, the FDIC supervised 3,270 insured depository institutions, with combined assets of $3.84 trillion. Of these, 23 institutions were industrial banks, comprising 0.7 percent of all FDIC-supervised institutions. The industrial banks hold combined assets of $169 billion, comprising 4.54 percent of the combined assets of FDIC-supervised institutions.[130] The majority of industrial banks are headquartered in Utah and Nevada, and hold nearly all of the combined assets of industrial banks. As of June 30, 2020, 14 industrial banks were headquartered in Utah, four in Nevada, three in California, one in Hawaii, and one in Minnesota.

The final rule applies prospectively to deposit insurance, change in control, and merger transactions resulting in an industrial bank that is controlled by a Covered Company. It is difficult to estimate the number of potential Covered Companies that will seek to establish or acquire an industrial bank, as such an estimate depends on considerations that affect Covered Companies' decisions. These considerations, and how they affect decision making, are difficult for the FDIC to forecast, estimate, or model, as the considerations include external parties' evaluations of potential business strategies for the industrial bank as well as future financial conditions, rates of return on capital, and innovations in the provision of financial services, among others. However, during the period of 2017 through 2019, the FDIC received nine industrial bank deposit insurance applications and one change in control application.[131] Consistent with the Paperwork Reduction Act (PRA)[132] estimates presented elsewhere in this rule, for this analysis the FDIC is estimating the final rule applies to four filings per year seeking to establish or acquire an industrial bank.

The final rule could indirectly affect subsidiaries of Covered Companies. Such Covered Companies operate through a variety of structures that include a range of subsidiaries and affiliates. Further, the final rule includes the FDIC's reservation of authority to require any industrial bank and its parent company, if not otherwise subject to part 354, to enter into written agreements, provide commitments, or abide by restrictions, as appropriate. Therefore, it is difficult to estimate the number of subsidiaries and affiliates of prospective Covered Companies, based on information currently available to the FDIC. However, based on the FDIC's experience as the primary Federal regulator of industrial banks,[133] the FDIC believes that the number of subsidiaries of the prospective Covered Companies affected by the final rule is likely to be small.

B. Analysis of the Commitments

Under the final rule, prospective Covered Companies are required to agree to the eight commitments, and may be required to agree to additional commitments under certain circumstances, which in summary include commitments by the Covered Company to:

- Furnish an initial listing, with annual updates, of the Covered Company's subsidiaries.
- Consent to the examination of the Covered Company and its subsidiaries.
- Submit an annual report on the Covered Company and its subsidiaries, and such other reports as requested.
- Maintain such records as deemed necessary.
- Cause an independent annual audit of each industrial bank.
- Limit the Covered Company's representation on the industrial bank's board of directors or managers (board),

[129] The FDIC may require, in the case of a Covered Company located outside the United States, United States-based capital and liquidity support of the subsidiary industrial bank.

[130] FDIC Call Report Data, June 30, 2020.

[131] During the same period, the FDIC did not receive any merger applications involving industrial banks.

[132] 44 U.S.C. 3501 *et seq.*

[133] Historically, industrial banks have elected not to become members of the Federal Reserve System. The FDIC is the primary Federal regulator for State nonmember banks and the insurer for all insured depository institutions.

as the case may be, to less than 50 percent.

- Maintain the industrial bank's capital and liquidity at such levels as deemed appropriate and take such other action to provide the industrial bank with a resource for additional capital or liquidity.
- Enter into a tax allocation agreement.
- Depending on the facts and circumstances, provide, adopt, and implement a contingency plan that sets forth strategies for recovery actions and the orderly disposition of the industrial bank without the need for a receiver or conservator.

The FDIC historically has imposed prudential conditions similar to the commitments listed above in connection with approving or not objecting to certain industrial bank filings. These conditions generally relate to the board and senior management, the business plan, operating policies, financial records, affiliate relationships, and other conditions on a case-by-case basis, depending on the facts and circumstances identified during the review of the respective filings.[134]

The table below presents the FDIC's analysis of the estimated costs to institutions that would be affected by the final rule of each required commitment. In each case, the FDIC used a total hourly compensation estimate of $94.15 per hour.[135] The FDIC received no comments regarding the estimated burden of the rule as proposed.

Proposed commitment	Estimated annual compliance hours	Estimated annual compliance costs
Lists of Subsidiaries	4	$376.60
Consent to the FDIC Examination	100	9,415.00
Annual and Such Other Reports as the FDIC may Request	10	941.50
Maintain Such Records as the FDIC Deems Necessary	10	941.50
Independent Audit [1]	100	9,415.00
Limit Membership on Board [2]	0	0.00
Maintain Capital and Liquidity	12	1,129.80
Tax Allocation Agreement [3]	0	0.00
Total	236	22,219.40

[1] The disclosure requirement and time to fulfill it are due to satisfying regulatory inquiries about the audit, and do not include the cost of the audit itself because Covered Companies already conduct audits for other purposes.
[2] Determinations regarding board membership are considered in the normal course of business.
[3] Tax allocation agreements are normal and customary among affiliated corporate entities.

The final rule also authorizes the FDIC to require additional commitments, including a contingency plan that sets forth strategies for recovery actions and the orderly disposition of the industrial bank without the appointment of a receiver or conservator. The additional contingency plan commitment would be required only in certain circumstances, based on the facts and circumstances presented and taking into consideration the size, complexity, interdependencies, and other factors relevant to the industrial bank and Covered Company.

It is difficult to estimate the recordkeeping, reporting, and disclosure costs associated with the contingency plan aspect of the final rule because such an estimate would depend on the organizational structure and activities of potential future Covered Companies. The FDIC currently lacks such detailed information on potential future Covered Companies. While the contingency plan commitment is meaningfully different from resolution plan requirements for large banks, and while industrial banks that might need to develop such contingency plans are meaningfully different from large banks subject to resolution planning requirements, the FDIC considered prior analyses regarding resolution planning requirements imposed on certain institutions to inform its analysis.

Based in part on the FDIC's experience implementing and managing the resolution planning requirements of § 360.10, the FDIC estimates that Covered Companies and their industrial banks subject to the contingency plan commitment could incur $326,000 in recordkeeping, reporting, and disclosure compliance costs annually. To put the estimated cost of this commitment into context, the pre-tax net income of the median industrial bank in 2019 was $64,515,000.[136] But, because the FDIC would have the supervisory discretion to tailor the contents of any contingency plan to a given Covered Company and its industrial bank, and because of the unique circumstances of the respective Covered Companies and industrial banks, the compliance costs incurred by Covered Companies would vary on a case-by-case basis, and could be lower.

The final rule incorporates an additional element as part of the reporting commitment to address Covered Companies' systems for protecting the security, confidentiality, and integrity of consumer and nonpublic personal information. However, the rule is constructed to

[134] *See* FDIC Deposit Insurance Application Procedures Manual Supplement, Applications from Non-Bank and Non-Community Bank Applicants, FIL–8–2020 (Feb. 10, 2020).

[135] Subject matter experts in the FDIC's Division of Risk Management Supervision estimated that time devoted to complying with the commitments is broken down as follows: 25 percent (Executives and Managers), 15 percent (Legal), 15 percent (Compliance Officers), 15 percent (Financial Analysts), 15 percent (IT Specialists), and 15 percent (Clerical). The Standard Occupational Classification System occupations and codes used by the FDIC are: Executives and Managers (Management Occupations, 110000), Lawyers (Lawyers, Judges, and Related Workers, 231000), Compliance Officers (Compliance Officers, 131041), Financial Analysts (Financial Analysts, 132051), IT Specialists (Computer and Mathematical Occupations, 150000), and Clerical (Office and Administrative Support Occupations, 430000). To estimate the weighted average hourly compensation cost of these employees, the 75th percentile hourly wages reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates as used for the relevant occupations in the Depository Credit Intermediation sector, as of May 2018. The 75th-percentile wage for lawyers is not reported, as it exceeds $100 per hour, so $100 per hour is used. The hourly wage rates reported do not include non-monetary compensation. According to the September 2019 Employer Cost of Employee Compensation data, compensation rates for health and other benefits are 33.8 percent of total compensation. To account for non-monetary compensation, the hourly wage rates reported by BLS are adjusted by that percentage. The hourly wage is adjusted by 2.28 percent based on changes in the Consumer Price Index for Urban Consumers from May 2018 to September 2019 to account for inflation and ensure that the wage information is contemporaneous with the non-monetary compensation statistic. Finally, the benefit-and-inflation-adjusted wages for each occupation are weighted by the percentages listed above to arrive at a weighted hourly compensation rate of $94.15.

[136] FDIC Call Report Data, December 31, 2019.

enable affected parties to comply with the various commitments by relying on established and ongoing reports and records, to the extent possible. As such, while recognizing the difficulty in estimating the costs associated with this additional element due to the unique circumstances of each affected party, the FDIC believes the enhanced commitment should have no material impact on the estimated overall burden.

As illustrated by the preceding analysis, the final rule could pose as much as $348,000 in additional recordkeeping, reporting, and disclosure compliance costs for each Covered Company that seeks to establish or acquire an industrial bank.[137] Covered Companies would also be likely to incur some regulatory costs associated with making the necessary changes to internal systems and processes. For context, the estimated $348,000 recordkeeping, reporting, and disclosure costs only comprise 0.8 percent of the median noninterest expense for the 23 existing industrial banks.[138]

The FDIC believes that the final rule would benefit the public by providing transparency for market participants and other interested parties. Additionally, the FDIC believes that the final rule would benefit the public by formalizing a framework by which the FDIC would supervise industrial banks and mitigate risk to the DIF that may otherwise be presented.

It is difficult to estimate whether the final rule would serve as an incentive or disincentive for affected parties. Decisions to establish or acquire an industrial bank depend on many considerations that the FDIC cannot accurately forecast, estimate, or model, such as future financial conditions, rates of return on capital, and innovations in the provision of financial services. The final rule would enhance transparency in the FDIC's evaluation of filings, which could increase the number of applications received. However, such transparency could also serve to limit the number of applications received.

The FDIC analyzed historical trends in filings that would be subject to the final rule. Based on that analysis, and consistent with the FDIC's PRA analysis, the FDIC assumes four applications: Three deposit insurance applications, and one change in bank control notice per year, on average. Between 2000 and 2009, the FDIC received as many as 12 and as few as two deposit insurance applications from entities seeking to organize an industrial bank; between 2017 and 2019, the FDIC received as many as four and as few as two such applications. Therefore, the FDIC believes it is reasonable to assume an annual deposit insurance application volume of four for the purpose of this analysis. In addition, the FDIC has received three change in bank control notices relating to industrial banks since 2010; therefore, the FDIC believes it is reasonable to assume an annual volume of one for the purpose of this analysis.

C. Safety and Soundness of Affected Banks

The FDIC believes the final rule is consistent with supervisory approaches the FDIC has used to insulate industrial banks from risks posed by their parent companies, and that these supervisory approaches have been effective. For example, as previously noted, only two small industrial banks failed during the crisis. The FDIC believes the final rule would provide a prudentially sound framework for reaching decisions on industrial bank filings that the FDIC receives from time to time.

D. Broad Effects on the Banking Industry

To the extent that the final rule results in higher numbers of industrial banks, the increase could lead to increased competition for depositors and borrowers. The increased competition could result in one or more of: Higher yields on deposit products, lower interest rates on loan products, reduced fees, less restrictive underwriting standards, greater account opening bonuses for new customers, and other benefits. To the extent that the final rule does not result in a higher number of industrial banks, this would not be expected to lead to increased competition for depositors and borrowers.

E. Expected Effects on Consumers

To the degree the final rule results in an increase in the number of industrial banks, consumers could benefit from increased competition within the banking industry. These benefits could take the form of higher rates on deposit accounts, improved access to credit with better terms or lower rates, and lower fees for banking services. To the extent that the proposed rule does not result in a higher number of industrial banks, this would not be expected to lead to potential benefits from increased competition within the banking industry. Finally, in response to comments the final rule includes a commitment for a Covered Company to inform the FDIC about the Covered Company's systems for protecting the security, confidentiality, and integrity of consumer and nonpublic personal information. This aspect of the final rule is expected to benefit consumers by helping to mitigate potential consumer protection risks.

F. Expected Effects on the Economy

The final rule's effects on the economy are likely to be modest, in line with its potential effects on the banking industry and consumers. If the final rule results in a modest increase in the number of industrial banks or improvement in the provision of banking products and services, the effects on the economy are likely to be modest.

VI. Regulatory Analysis

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a final rule, to prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of a final rule on small entities.[139] However, a final regulatory flexibility analysis is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[140] The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $600 million.[141]

Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total noninterest expenses. The FDIC has considered the potential impact of the final rule on small entities in accordance with the RFA. Based on its analysis and for the reasons stated below, the FDIC believes that this final rule will not have a significant economic impact on a substantial number of small entities.

[137] $22,219.40 for all Covered Companies that seek to establish or acquire an industrial bank, and an additional $326,000 for those institutions required to adopt, implement, and adhere to a contingency plan.

[138] FDIC Call Report Data, December 31, 2019.

[139] 5 U.S.C. 601 *et seq.*

[140] 5 U.S.C. 605(b).

[141] The SBA defines a small banking organization as having $600 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* 13 CFR 121.201 (as amended, effective Aug. 19, 2019). In its determination, the SBA ''counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit.'' 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is ''small'' for the purposes of RFA.

As of June 30, 2020, the FDIC supervises 3,270 institutions, of which 2,492 are defined as small institutions by the terms of the RFA.[142] Of these 3,270 institutions, 23 are industrial banks.

As previously discussed, a currently chartered industrial bank would be subject to the final rule, as would its parent company that is not subject to Federal consolidated supervision, if such a parent company acquired control of the grandfathered industrial bank pursuant to a change in bank control transaction that closes after the effective date of the final rule, or if the grandfathered industrial bank is the surviving institution in a merger transaction that closes after the effective date of the final rule.

Of the 23 existing industrial banks, eight reported total assets less than $600 million, indicating that they could be small entities. However, to determine whether an institution is ''small'' for the purposes of the RFA, the SBA requires consideration of the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.[143] The FDIC conducted an analysis to determine whether each industrial bank's parent company was ''small,'' according to the SBA size standards applicable to each particular parent company.[144] Of the eight industrial banks that reported total assets less than $600 million, the FDIC was able to determine that three of these potentially small industrial banks were owned by holding companies which were not small for purposes of the RFA. However, the FDIC currently lacks information necessary to determine whether the remaining five industrial banks are small. Therefore, of the 23 existing industrial banks, 18 are not small entities for purposes of the RFA, but no more than five, or about 22 percent, may be small entities.

Additionally, the FDIC has received three change in control notices relating to industrial banks since 2010. Of those three, only one was from an industrial bank that could possibly be small for purposes of the RFA.

Therefore, given that no more than five of the 23 existing industrial banks are small entities for the purposes of the RFA, and that no more than one change in control notice received by the FDIC since 2010 may be from a small entity, the FDIC believes the aspects of the final rule relating to change in control notices or merger applications involving industrial banks is not likely to affect a substantial number of small entities among existing industrial banks.

As previously discussed, the final rule applies to industrial banks that, as of the effective date, become subsidiaries of companies that are Covered Companies, as such term is defined in § 354.2. It is difficult for the FDIC to estimate the volume of future applications from entities who seek to own and operate an insured industrial bank, or whether those entities would be considered ''small'' according to the terms of RFA, with the information currently available to the FDIC. Such estimates would require detailed information on the particular business models of institutions, prevailing economic and financial conditions, the decisions of senior management, and the demand for financial services, among other things. However, the FDIC reviewed the firms with industrial bank applications pending before the FDIC as of December 31, 2019. Each publically traded applicant had a market capitalization of at least $1 billion as of March 6, 2020. Each applicant operates either nationally within the United States, or operates worldwide, and none appear likely to be small for purposes of the RFA. Therefore, the FDIC believes that the aspects of the final rule relating to entities who seek to own and operate an insured industrial bank is not likely to affect a substantial number of small entities among existing industrial banks.

Therefore, based on the preceding information, the FDIC certifies that the final rule does not significantly affect a substantial number of small entities.

B. Paperwork Reduction Act

In accordance with the requirements of the PRA,[145] the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

As discussed above, the final rule imposes PRA reporting and recordkeeping requirements for each industrial bank subject to the rule and its Covered Company. In particular, each industrial bank, and each Covered Company that directly or indirectly controls the industrial bank, must (i) agree to furnish the FDIC an initial listing, with annual updates, of all of the Covered Company's subsidiaries; (ii) submit to the FDIC an annual report on the Covered Company and its subsidiaries, and such other reports as the FDIC may request; [146] (iii) maintain such records as the FDIC deems necessary to assess the risks to the industrial bank and to the DIF; and (iv) in the event that the FDIC has concerns about a complex organizational structure or based on other circumstances presented by a particular filing, the FDIC may condition the approval of an application or the non-objection to a notice—in each case that would result in an industrial bank being controlled, directly or indirectly, by a Covered Company—on the Covered Company and industrial bank committing to providing to the FDIC, and thereafter adopting and implementing, a contingency plan that sets forth, at a minimum, one or more strategies for recovery actions and the orderly disposition of such industrial bank, without the need for the appointment of a receiver or conservator.

The FDIC submitted its request to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and § 1320.11 of OMB's implementing regulations (5 CFR part 1320) at the proposed rule stage. OMB filed a comment assigning the FDIC OMB control number 3064–0213 and indicated that OMB would re-review the PRA submission once the proposed rule was finalized. The FDIC did not receive any comments on the PRA. In addition, as stated above, because the final rule has been constructed to enable affected parties to comply with the various reporting commitments by relying on established and ongoing reports and records, the FDIC believes that the enhanced reporting commitment should have no effect on the PRA burden listed at the proposed rule stage.

Information Collection

Title: Industrial Banks and Industrial Loan Companies.

OMB Number: 3064–0213.

Affected Public: Prospective parent companies of industrial banks and industrial loan companies.

[142] FDIC Call Report Data, September 30, 2019. In order to determine whether an entity is ''small'' for purposes of the Regulatory Flexibility Act, the FDIC uses its ''affiliated and acquired assets'' as described in the immediately preceding footnote. The latest available bank and thrift holding company reports, which the FDIC uses to determine an entity's ''affiliated and acquired assets,'' are as of September 30, 2019.

[143] 12 CFR 121.103.

[144] For example, if a particular industrial bank's parent company was a motorcycle manufacturer, then the size standards applicable to motorcycle manufacturers were used.

[145] 44 U.S.C. 3501 *et seq.*

[146] The final rule requires additional reporting by Covered Companies regarding systems for protecting the security, confidentiality, and integrity of consumer and nonpublic personal information as part of the annual report.

SUMMARY OF ANNUAL BURDEN AND INTERNAL COST

	Type of burden	Obligation to respond	Estimated number of respondents	Estimated frequency of responses	Estimated time per response	Frequency of response	Total annual estimated burden (hours)
Initial listing of all of the Covered Company's subsidiaries.	Reporting	Mandatory	4	1.00	4	One Time	16
Annual update of listing of all of the Covered Company's subsidiaries.	Reporting	Mandatory	4	1.00	4	Annual	16
Annual report on the Covered Company and its subsidiaries, and such other reports as the FDIC may request.	Reporting	Mandatory	4	1.00	10	Annual	40
Maintain records to assess the risks to the industrial bank and to the DIF.	Recordkeeping	Mandatory	4	1.00	10	Annual	40
Contingency Plan	Reporting	Mandatory	1	1.00	345	On Occasion	345
Total Hourly Burden							457

C. Plain Language

Section 722 of the GLBA [147] requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. The FDIC sought to present the final rule in a simple and straightforward manner and did not receive any comments on the use of plain language in the proposed rule.

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the RCDRIA,[148] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[149] The FDIC considered the administrative burdens and benefits of the final rule in determining its effective date and administrative compliance requirements. As such, the final rule will be effective on April 1, 2021.

[147] 12 U.S.C. 4809.

[148] 12 U.S.C. 4802(a).

[149] 12 U.S.C. 4802(b).

E. Congressional Review Act

For purposes of the Congressional Review Act, OMB makes a determination as to whether a final rule constitutes a ''major'' rule.[150] If a rule is deemed a ''major rule'' by the OMB, the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.[151]

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (1) an annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[152]

The FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

List of Subjects in 12 CFR Part 354

Bank deposit insurance, Banks, banking, Finance, Holding companies, Industrial banks, Industrial loan company, Insurance, Parent company, Reporting and recordkeeping requirements, Savings associations.

12 CFR Chapter III

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation amends title 12 of the Code of Federal Regulations by adding part 354 to read as follows:

[150] 5 U.S.C. 801 *et seq.*

[151] 5 U.S.C. 801(a)(3).

[152] 5 U.S.C. 804(2).

PART 354—INDUSTRIAL BANKS

Sec.
354.1 Scope.
354.2 Definitions.
354.3 Written agreement.
354.4 Required commitments and provisions of written agreement.
354.5 Restrictions on industrial bank subsidiaries of Covered Companies.
354.6 Reservation of authority.

Authority: 12 U.S.C. 1811, 1815, 1816, 1817, 1818, 1819(a) (Seventh) and (Tenth), 1820(g), 1831*o*–1, 3108, 3207.

§ 354.1 Scope.

(a) In addition to the applicable filing procedures of part 303 of this chapter, this part establishes certain requirements for filings involving an industrial bank or a Covered Company.

(b) The requirements of this part do not apply to an industrial bank that is organized as a subsidiary of a company that is not subject to Federal consolidated supervision by the Federal Reserve Board (FRB) before April 1, 2021. In addition, this part does not apply to:

(1) Any industrial bank that is or becomes controlled by a company that is subject to Federal consolidated supervision by the FRB; and

(2) Any industrial bank that is not or will not become a subsidiary of a company.

§ 354.2 Definitions.

Unless defined in this section, terms shall have the meaning given to them in section 3 of the FDI Act.

Control means the power, directly or indirectly, to direct the management or policies of a company or to vote 25 percent or more of any class of voting securities of a company, and includes the rebuttable presumptions of control at § 303.82(b)(1) of this chapter and of acting in concert at § 303.82(b)(2) of this chapter. For purposes of this part, the

presumptions set forth in § 303.82(b)(1) and (2) of this chapter shall apply with respect to any company in the same manner and to the same extent as if they applied to an acquisition of securities of the company.

Covered Company means any company that is not subject to Federal consolidated supervision by the FRB and that controls an industrial bank:

(1) As a result of a change in bank control pursuant to section 7(j) of the FDI Act;

(2) As a result of a merger transaction pursuant to section 18(c) of the FDI Act; or

(3) That is granted deposit insurance by the FDIC pursuant to section 6 of the FDI Act, in each case on or after April 1, 2021.

FDI Act means the Federal Deposit Insurance Act, 12 U.S.C. 1811, *et seq.*

Filing has the meaning given to it in § 303.2(s) of this chapter.

FRB means the Board of Governors of the Federal Reserve System and each Federal Reserve Bank.

Industrial bank means any insured State bank that is an industrial bank, industrial loan company, or other similar institution that is excluded from the definition of the term ''bank'' in section 2(c)(2)(H) of the Bank Holding Company Act, 12 U.S.C. 1841(c)(2)(H).

Senior executive officer has the meaning given it in § 303.101(b) of this chapter.

§ 354.3 Written agreement.

(a) No industrial bank may become a subsidiary of a Covered Company unless the Covered Company enters into one or more written agreements with both the Federal Deposit Insurance Corporation (FDIC) and the subsidiary industrial bank, which contain commitments by the Covered Company to comply with each of paragraphs (a)(1) through (8) in § 354.4 and such other written agreements, commitments, or restrictions as the FDIC deems appropriate, including, but not limited to, the provisions of §§ 354.4 and 354.5.

(b) The FDIC may, at its sole discretion, condition a grant of deposit insurance, issuance of a non-objection to a change in control, or approval of a merger on an individual who is a controlling shareholder of a Covered Company joining as a party to any written agreement required by paragraph (a) of this section.

§ 354.4 Required commitments and provisions of written agreement.

(a) The commitments required to be made in the written agreements referenced in § 354.3 are set forth in paragraphs (a)(1) through (8) of this section. In addition, with respect to an industrial bank subject to this part, the FDIC will condition each grant of deposit insurance, each issuance of a non-objection to a change in control, and each approval of a merger on compliance with paragraphs (a)(1) through (8) of this section by the parties to the written agreement. As required, each Covered Company must:

(1) Submit to the FDIC an initial listing of all of the Covered Company's subsidiaries and update such list annually;

(2) Consent to the examination by the FDIC of the Covered Company and each of its subsidiaries to permit the FDIC to assess compliance with the provisions of any written agreement, commitment, or condition imposed; the FDI Act; or any other Federal law for which the FDIC has specific enforcement jurisdiction against such Covered Company or subsidiary, and all relevant laws and regulations;

(3) Submit to the FDIC an annual report describing the Covered Company's operations and activities, in the form and manner prescribed by the FDIC, and such other reports as may be requested by the FDIC to inform the FDIC as to the Covered Company's:

(i) Financial condition;

(ii) Systems for identifying, measuring, monitoring, and controlling financial and operational risks;

(iii) Transactions with depository institution subsidiaries of the Covered Company;

(iv) Systems for protecting the security, confidentiality, and integrity of consumer and nonpublic personal information; and

(v) Compliance with applicable provisions of the FDI Act and any other law or regulation;

(4) Maintain such records as the FDIC may deem necessary to assess the risks to the subsidiary industrial bank or to the Deposit Insurance Fund;

(5) Cause an independent audit of each subsidiary industrial bank to be performed annually;

(6) Limit the Covered Company's direct and indirect representation on the board of directors or board of managers, as the case may be, of each subsidiary industrial bank to less than 50 percent of the members of such board of directors or board of managers, in the aggregate, and, in the case of a subsidiary industrial bank that is organized as a member-managed limited liability company, limit the Covered Company's direct and indirect representation as a managing member to less than 50 percent of the managing member interests of the subsidiary industrial bank, in the aggregate;

(7) Maintain the capital and liquidity of the subsidiary industrial bank at such levels as the FDIC deems appropriate, and take such other actions as the FDIC deems appropriate to provide the subsidiary industrial bank with a resource for additional capital and liquidity including, for example, pledging assets, obtaining and maintaining a letter of credit from a third-party institution acceptable to the FDIC, and providing indemnification of the subsidiary industrial bank; and

(8) Execute a tax allocation agreement with its subsidiary industrial bank that expressly states that an agency relationship exists between the Covered Company and the subsidiary industrial bank with respect to tax assets generated by such industrial bank, and that further states that all such tax assets are held in trust by the Covered Company for the benefit of the subsidiary industrial bank and will be promptly remitted to such industrial bank. The tax allocation agreement also must provide that the amount and timing of any payments or refunds to the subsidiary industrial bank by the Covered Company should be no less favorable than if the subsidiary industrial bank were a separate taxpayer.

(b) The FDIC may require such Covered Company and industrial bank to commit to provide to the FDIC, and, thereafter, implement and adhere to, a contingency plan subject to the FDIC's approval that sets forth, at a minimum, recovery actions to address significant financial or operational stress that could threaten the safe and sound operation of the industrial bank and one or more strategies for the orderly disposition of such industrial bank without the need for the appointment of a receiver or conservator.

§ 354.5 Restrictions on industrial bank subsidiaries of Covered Companies.

Without the FDIC's prior written approval, an industrial bank that is controlled by a Covered Company shall not:

(a) Make a material change in its business plan after becoming a subsidiary of such Covered Company;

(b) Add or replace a member of the board of directors, board of managers, or a managing member, as the case may be, of the subsidiary industrial bank during the first three years after becoming a subsidiary of such Covered Company;

(c) Add or replace a senior executive officer during the first three years after becoming a subsidiary of such Covered Company;

(d) Employ a senior executive officer who is, or during the past three years has been, associated in any manner (*e.g.,*

as a director, officer, employee, agent, owner, partner, or consultant) with an affiliate of the industrial bank; or

(e) Enter into any contract for services material to the operations of the industrial bank (for example, loan servicing function) with such Covered Company or any subsidiary thereof.

§ 354.6 Reservation of authority.

Nothing in this part limits the authority of the FDIC under any other provision of law or regulation to take supervisory or enforcement actions, including actions to address unsafe or unsound practices or conditions, or violations of law.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on December 15, 2020.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2020–28473 Filed 2–22–21; 8:45 am]

BILLING CODE 6714–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 704

RIN 3133–AF13

Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is issuing a final rule that amends the NCUA's corporate credit union regulation. The final rule updates the definitions in this regulation and makes clear that corporate credit unions may purchase subordinated debt instruments issued by natural person credit unions. The final rule also specifies the capital treatment of these instruments for corporate credit unions that purchase them.

DATES: The final rule is effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT: *Policy and Analysis:* Robert Dean, National Supervision Analyst, Office of National Examinations and Supervision, (703) 518–6652; *Legal:* Rachel Ackmann, Senior Staff Attorney, Office of General Counsel, (703) 548–2601; or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Introduction

a. Legal Authority and Background

The Board is issuing this rule pursuant to its authority under the Federal Credit Union Act (FCU Act).[1] Under the FCU Act, the NCUA is the chartering and supervisory authority for Federal credit unions (FCUs) and the federal supervisory authority for federally insured credit unions (FICUs). The FCU Act grants the NCUA a broad mandate to issue regulations governing both FCUs and FICUs. Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe regulations for the administration of the FCU Act.[2] Section 209 of the FCU Act is a plenary grant of regulatory authority to the NCUA to issue regulations necessary or appropriate to carry out its role as share insurer for all FICUs.[3] The FCU Act also includes an express grant of authority for the Board to subject federally chartered central, or corporate, credit unions to such rules, regulations, and orders as the Board deems appropriate.[4]

Part 704 of the NCUA's regulations implements the requirements of the FCU Act regarding corporate credit unions.[5] In 2010, the Board comprehensively revised the regulations governing corporate credit unions to provide longer-term structural enhancements to the corporate system in response to the financial crisis of 2007–2009.[6] The provisions of the 2010 rule successfully stabilized the corporate system and improved corporate credit unions' ability to function and provide services to natural person credit unions. Since 2010, and as part of the Board's continuous reevaluation of its regulation of corporate credit unions, the Board has amended part 704 on several occasions.[7] In 2017, the Board amended corporate credit union capital standards to change the calculation of capital after a consolidation and to set a retained earnings ratio target in meeting prompt corrective action (commonly referred to as PCA) standards.[8] In October 2020, the Board issued a final rule to amend several provisions relating to corporate credit union investments in credit union service organizations (CUSOs) and other provisions relating to corporate credit union governance and technical matters, as discussed in the following sections.

b. February 2020 Proposed Rule on Part 704

On February 20, 2020, the Board approved a notice of proposed rulemaking to update, clarify, and simplify several provisions of part 704 (proposed rule).[9] The proposed rule provided for a 60-day comment period, which the Board later extended by 60 days because of COVID–19.[10] The comment period ended on July 27, 2020.

c. October 2020 Final Rule on Part 704

The NCUA received 35 comment letters on the proposed rule. Comments were received from credit unions, both corporate and natural persons, credit union leagues and trade associations, individuals, corporate CUSOs, and an association of state credit union supervisors. In October 2020, the Board issued a final rule that: (1) Permits a corporate credit union to make a minimal investment in a CUSO without the CUSO being classified as a corporate CUSO and subject to heightened NCUA oversight; (2) expands the categories of senior staff positions at member credit unions eligible to serve on a corporate credit union's board; (3) removes the experience and independence requirement for a corporate credit union's enterprise risk management expert; (4) clarifies the definition of a collateralized debt obligation; and (5) simplifies the requirement for net interest income modeling.[11]

The October 2020 final rule deferred final action on the provisions in the proposed rule that addressed the permissibility and capital treatment for corporate credit union purchases of subordinated debt instruments under the Board's January 2020 proposed rule on subordinated debt.[12] In the October 2020 final rule, the Board discussed the comments on this part of the proposed rule and noted that the commenters that addressed these provisions all supported them. The Board did not adopt the provisions at that time because it had not yet finalized the January 2020 proposed rule on subordinated debt.

d. Final Rule on Subordinated Debt

The Board has now adopted the January 2020 proposed rule on subordinated debt as final.[13] These

[1] 12 U.S.C. 1751 *et seq.*

[2] 12 U.S.C. 1766(a).

[3] 12 U.S.C. 1789.

[4] 12 U.S.C. 1766(a).

[5] 12 CFR part 704.

[6] 75 FR 64786 (Oct. 20, 2010).

[7] *See e.g.,* 80 FR 25932 (May 6, 2015), 80 FR 57283 (Sept. 23, 2015), and 82 FR 55497 (Nov. 22, 2017).

[8] 82 FR 55497 (Nov. 22, 2017).

[9] 85 FR 17288 (Mar. 27, 2020).

[10] 85 FR 20431 (Apr. 13, 2020).

[11] 85 FR 71817 (Nov. 12, 2020).

[12] 85 FR 13982 (Mar. 10, 2020).

[13] *See, https://www.ncua.gov/files/agenda-items/AG20201217Item5b.pdf.*

changes include a reduction in the duration of required pro forma financial statements from five to two years, an adjustment to the definition of Accredited Investor, an increase in the expiration to issue period from one year to two years, clarifying the territorial restrictions on issuances, and clarifying when the Board will publish a fee schedule. The Board notes that none of these changes impact its rationale for requiring corporate credit unions to deduct natural person subordinated debt instruments. Therefore, the Board is now adopting the amendments that it proposed to the corporate credit union regulation in the February 2020 proposed rule.

II. This Final Rule

Natural Person Credit Union Subordinated Debt Instruments

As discussed previously, in January 2020, the Board issued a proposed rule to permit low-income designated credit unions, complex credit unions, and new credit unions to issue subordinated debt instruments for purposes of regulatory capital treatment.[14] Subsequently, in the February 2020 proposed rule on corporate credit unions, the Board proposed to address whether corporate credit unions may purchase such instruments and, if so, the treatment of the investments under part 704. In the October 2020 final rule on part 704, the Board discussed and analyzed the comments it received on this part of the February 2020 proposed rule but deferred final action in order to coordinate it with the final rule on subordinated debt. Because the Board has now issued the final rule on subordinated debt without any changes that affect the proposed revisions to part 704 on which the Board already solicited and received public comment, the Board is now also finalizing the proposed changes to part 704.

The February 2020 proposed rule created a new definition for the term natural person credit union subordinated debt instrument. The proposed rule defined a natural person credit union subordinated debt instrument as any debt instrument issued by a natural person credit union that is subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and either the National Credit Union Share Insurance Fund (NCUSIF) or the insurer of a privately insured credit union. This definition is designed to include all instruments issued under the authority of the subordinated debt rule. No commenters to the February 2020 proposed rule objected to this proposed definition. Now that the Board has finalized the subordinated debt proposed rule without substantial changes from its proposed form, the Board is now adopting this proposed definition in part 704.

The February 2020 proposed rule also clarified that corporate credit unions may purchase the natural person credit union subordinated debt instruments. This authority is derived from their lending authority because subordinated debt instruments are issued under a natural person credit union's borrowing authority. Additionally, natural person credit unions are also permitted, subject to various restrictions and limits, to purchase such subordinated debt instruments from other natural person credit unions under their lending authority. Treating the purchase of such subordinated debt instruments as lending ensures consistent treatment between natural person credit unions and corporate credit unions. The Board is not making any amendment to the regulatory text in part 704 to this effect because corporate credit unions' current lending authority is sufficiently broad to include purchasing subordinated debt instruments. However, the Board reiterates that these purchases are permissible to avoid doubt.

In addition, the February 2020 proposed rule included a requirement for a corporate credit union to fully deduct the amount of the subordinated debt instrument from its Tier 1 capital to ensure consistent treatment between investments in the capital of other corporate credit unions and natural person credit unions. Under the current regulation, corporate credit unions are currently required to deduct from Tier 1 capital any investments in perpetual contributed capital and nonperpetual capital accounts that are maintained at other corporate credit unions.[15] The proposed rule also asked a question on whether it would be more appropriate to prohibit corporate credit unions from purchasing subordinated debt instruments. No commenter recommended restricting corporate credit union authority to purchase subordinated debt instruments.

The Board believes that investments in natural person credit union subordinated debt instruments should be treated similarly to investments in perpetual contributed capital and nonperpetual capital accounts that are maintained at other corporate credit unions as such instruments may qualify as regulatory capital for the natural person credit union. The Board is also concerned about systemic risk if corporate credit unions own a significant amount of natural person credit union issued subordinated debt. Finally, a natural person credit union subordinated debt instrument would be in a first loss position, even before the NCUSIF and any private insurance fund or entity. Therefore, an involuntary liquidation of the issuing credit union would potentially mean large, and likely total, losses for the holders of those subordinated obligations. The Board believes that fully deducting such instruments from Tier 1 capital ensures any potential losses do not affect the capital position of the investing corporate credit union. This measured approach strikes the right balance between providing corporate credit unions the flexibility to purchase natural person credit union subordinated debt instruments and avoiding undue systemic risk to the credit union system. As discussed previously, the Board's final rule on subordinated debt made no substantial changes to that rule to change this conclusion regarding corporate credit unions' purchases of the instruments. Therefore, the Board is adopting the Tier 1 capital deductions that it proposed in the February 2020 proposed rule.

III. Regulatory Procedures

Final Rule Under the Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to issue a notice of proposed rulemaking and give interested persons an opportunity to participate in the rule making through submission of comments.[16] As detailed in the background section of this preamble, the Board provided notice and an opportunity to comment on the changes made in this final rule in the proposed rule issued in February 2020. The Board deferred final action on certain provisions of the February 2020 proposed rule to coordinate with the separate rulemaking on subordinated debt. The final rule on subordinated debt is substantially similar to its proposed form, which means that commenters on the February 2020 proposed rule received notice and an opportunity to comment on these provisions. Therefore, the Board is adopting the amendments in this final rule without issuing a new notice of

[14] *Id.*

[15] 12 CFR 704.2 (definition of ''Tier 1 capital'').

[16] 5 U.S.C. 553.

proposed rulemaking, which would be duplicative in this case.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a final rule, an agency prepare and make available for public comment a final regulatory flexibility analysis that describes the impact of a final rule on small entities (defined for purposes of the RFA to include credit unions with assets less than $100 million).[17] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

This final rule does not have a significant economic impact on a substantial number of small entities. There are no corporate credit unions under $100 million in assets. Therefore, the Board certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

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

The final rule amends 12 CFR part 704 to address the permissibility and capital treatment of natural person subordinated debt instruments purchased by corporate credit unions. The amendments to part 704 revise the Corporate Credit Union Call Report cleared under OMB Control number 3133–0067. Public comments were solicited in a separate **Federal Register** notice (85 FR 65435, October 15, 2020) and no comment were received. The information collection request has been submitted to the Office of Management Budget for approval.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the principles of the Executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the Executive order.

Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule does not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999.[18]

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) generally provides for congressional review of agency rules.[19] A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by Section 551 of the APA.[20] An agency rule, in addition to being subject to congressional oversight, may also be subject to a delayed effective date if the rule is a ''major rule.''[21] The NCUA does not believe this rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. As required by SBREFA, the NCUA will submit this final rule to OMB for it to determine if the final rule is a ''major rule'' for purposes of SBREFA. The NCUA also will file appropriate reports with Congress and the Government Accountability Office so this rule may be reviewed.

List of Subjects in 12 CFR Part 704

Credit unions, Corporate credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on January 14, 2021.

Melane Conyers-Ausbrooks,

Secretary of the Board.

For the reasons discussed in the preamble, the Board amends 12 CFR part 704 as follows:

PART 704—CORPORATE CREDIT UNIONS

■ 1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, 1789.

■ 2. In § 704.2:

■ a. Add in alphabetical order a definition of ''Natural person credit union subordinated debt instrument''; and

■ b. Revise the definition of ''Tier 1 capital''.

The addition and revision read as follows:

§ 704.2 Definitions.

* * * * *

Natural person credit union subordinated debt instrument is any debt instrument issued by a natural person credit union that is subordinate to all other claims against the credit union, including the claims of creditors, shareholders, and either the National Credit Union Share Insurance Fund or the insurer of a privately insured credit union.

* * * * *

Tier 1 capital means the sum of items in paragraphs (1) and (2) of this definition from which items in paragraphs (3) through (7) of this definition are deducted:

(1) Retained earnings;

(2) Perpetual contributed capital;

(3) Deduct the amount of the corporate credit union's intangible assets that exceed one half percent of its moving daily average net assets (however, the NCUA may direct the corporate credit union to add back some of these assets on the NCUA's own initiative, or the NCUA's approval of petition from the applicable state regulator or application from the corporate credit union);

(4) Deduct investments, both equity and debt, in unconsolidated CUSOs;

(5) Deduct an amount equal to any PCC or NCA that the corporate credit union maintains at another corporate credit union;

(6) Deduct any amount of PCC received from federally insured credit unions that causes PCC minus retained earnings, all divided by moving daily average net assets, to exceed two percent when a corporate credit union's retained earnings ratio is less than two and a half percent; and

(7) Deduct any natural person credit union subordinated debt instrument held by the corporate credit union.

* * * * *

[FR Doc. 2021–01399 Filed 2–22–21; 8:45 am]

BILLING CODE 7535–01–P

[17] *See* 80 FR 57512 (Sept. 24, 2015).

[18] Public Law 105–277, 112 Stat. 2681 (1998).

[19] 5 U.S.C. 801–804.

[20] 5 U.S.C. 551.

[21] 5 U.S.C. 804(2).

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121 and 127

RIN 3245–AG94

Consolidation of Mentor-Protégé Programs and Other Government Contracting Amendments; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Correcting amendments.

SUMMARY: The U.S. Small Business Administration (SBA) is correcting regulations published in the **Federal Register** on October 16, 2020. The rule merged the 8(a) Business Development (BD) Mentor-Protégé Program and the All Small Mentor-Protégé Program to eliminate confusion and remove unnecessary duplication of functions within SBA. This document is making several technical corrections to the regulations.

DATES: Effective February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Mark Hagedorn, U.S. Small Business Administration, Office of General Counsel, 409 Third Street SW, Washington, DC 20416; (202) 205–7625; *mark.hagedorn@sba.gov.*

SUPPLEMENTARY INFORMATION: SBA published a final rule revising the regulations pertaining to the 8(a) BD and size programs in order to further reduce unnecessary or excessive burdens on small businesses and to eliminate confusion or more clearly delineate SBA's intent in certain regulations. (85 FR 66146). This is the third set of corrections. The first set of corrections was published in the **Federal Register** on November 16, 2020. (85 FR 72916). The second set of corrections was published in the **Federal Register** on January 14, 2021. This document augments those corrections.

In the final rule, SBA amended § 121.103(h) to revise and clarify the requirements for joint ventures. In doing so, the sub-paragraphs in this section were reorganized. The language about ostensible subcontractors moved from § 121.103(h)(4) to § 121.103(h)(2). This document removes references to § 121.103(h)(4) and replaces them with references to § 121.103(h)(2) in the introductory text to § 121.103(h), in paragraph § 121.404(d), and in paragraph § 127.504(g).

List of Subjects

13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Small businesses.

13 CFR Part 127

Government contracts, Reporting and recordkeeping requirements, Small businesses.

Accordingly, 13 CFR parts 121 and 127 are corrected by making the following correcting amendments:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(a)(36), 662, and 694a(9); Pub. L. 116–136, Section 1114.

■ 2. In § 121.103 amend paragraph (h) introductory text by revising the second-to-last sentence to read as follows:

§ 121.103 How does SBA determine affiliation?

* * * * *

(h) * * * SBA may also determine that the relationship between a prime contractor and its subcontractor is a joint venture pursuant to paragraph (h)(2). * * *

* * * * *

■ 3. Amend § 121.404 by revising paragraph (d) to read as follows:

§ 121.404 When is the size status of a business concern determined?

* * * * *

(d) *Nonmanufacturer rule, ostensible subcontractor rule, and joint venture agreements.* Compliance with the nonmanufacturer rule set forth in § 121.406(b)(1), the ostensible subcontractor rule set forth in § 121.103(h)(2), and the joint venture agreement requirements in § 124.513(c) and (d), § 125.8(b) and (c), § 125.18(b)(2) and (3), § 126.616(c) and (d), or § 127.506(c) and (d) of this chapter, as appropriate, is determined as of the date of the final proposal revision for negotiated acquisitions and final bid for sealed bidding.

* * * * *

PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

■ 4. The authority citation for part 127 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 637(m), 644 and 657r.

■ 5. Amend § 127.504 by revising the second sentence of paragraph (g)(1) to read as follows:

§ 127.504 What requirements must an EDWOSB or WOSB meet to be eligible for an EDWOSB or WOSB requirement?

* * * * *

(g) * * *

(1) * * * When the subcontractor is other than small or alleged to be other than small for the size standard assigned to the procurement, this issue may be grounds for a size protest, as described at § 121.103(h)(2) of this chapter.

* * * * *

John W. Klein,

Acting Associate Administrator, Government Contracting and Business Development.

[FR Doc. 2021–03008 Filed 2–22–21; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

RIN 3245–AG85

Ownership and Control of Service-Disabled Veteran-Owned Small Business Concerns; Correction

AGENCY: U.S. Small Business Administration.

ACTION: Correcting amendment.

SUMMARY: The U.S. Small Business Administration (SBA) is correcting regulations that published in the **Federal Register** on September 28, 2018. The rule issued one definition of ownership and control for the Department of Veterans Affairs verification of Veteran-Owned (VO) and Service-Disabled Veteran-Owned (SDVO) Small Business Concerns (SBCs) with the SBA. This document is making one technical correction to the regulations.

DATES: Effective February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Ed Bender, U.S. Small Business Administration, Office of General Counsel, 409 Third Street SW, Washington, DC 20416; (202) 205–6455; *edmund.bender@sba.gov.*

SUPPLEMENTARY INFORMATION: In response to the provisions of the National Defense Authorization Act for Fiscal Year 2017 (NDAA 2017), SBA issued regulations relating to ownership and control for the Department of Veterans Affairs verification of Veteran-Owned (VO) and Service-Disabled Veteran-Owned (SDVO) Small Business Concerns (SBCs) with the SBA. 83 FR 48908. Pursuant to NDAA 2017, SBA issued one definition of ownership and control for these concerns, which applies to the Department of Veterans Affairs in its verification and Vets First Contracting Program procurements, and

all other government acquisitions which require self-certification. The legislation also provided that in certain circumstances a firm can qualify as VO or SDVO when there is a surviving spouse or an employee stock ownership plan (ESOP).

In response to the NDAA 2017 changes, SBA amended the definitions in § 125.11 by incorporating language from VA's regulations and also from SBA's 8(a) Business Development (BD) program regulations. 13 CFR part 124, subpart A. In making these amendments, SBA inadvertently removed the definition of ''interested party.'' This rule adds back the definition.

List of Subjects in 13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Technical assistance.

Accordingly, 13 CFR part 125 is corrected by making the following correcting amendment:

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 1. The authority citation for part 125 continues to read as follows:

Authority: 15 U.S.C. 632(p), (q), 634(b)(6), 637, 644, 657f, 657q, 657r, and 657s; 38 U.S.C. 501 and 8127.

■ 2. Amend § 125.11 by adding in alphabetical order the definition of ''Interested Party'' to read as follows:

§ 125.11 What definitions are important in the Service-Disabled Veteran-Owned (SDVO) Small Business Concern (SBC) Program?

* * * * *

Interested Party means the contracting activity's contracting officer, SBA, any concern that submits an offer for a specific sole source or set-aside SDVO contract or order (including Multiple Award Contracts), or any concern that submitted an offer in full and open competition and its opportunity for award will be affected by a reserve of an award given to a SDVO SBC.

* * * * *

John W. Klein,

Acting Associate Administrator, Government Contracting and Business Development.

[FR Doc. 2021–03007 Filed 2–22–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0900; Product Identifier 2020–NM–080–AD; Amendment 39–21400; AD 2021–02–17]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A318 series airplanes; Model A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A319–151N, and A319–153N airplanes; Model A320 series airplanes; and Model A321 series airplanes. This AD was prompted by the results of laboratory tests on non-rechargeable lithium batteries installed in emergency locator transmitters (ELT), which highlighted a lack of protection against certain currents that could lead to thermal runaway and a battery fire. This AD requires modifying a certain ELT by installing a diode in the airplane circuit connecting the ELT battery, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 30, 2021.

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* For Airbus SAS service information incorporated by reference in this AD, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *https://www.airbus.com.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0900.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0900; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0103, dated May 7, 2020; corrected May 8, 2020 (EASA AD 2020–0103) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A318–111, A318–112, A318–121, A318–122 airplanes; Model A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A319–151N, and A319–153N airplanes; Model A320–211, A320–212, A320–214, A320–215, A320–216, A320–231, A320–232, A320–233, A320–251N, A320–252N, A320–253N, A320–271N, A320–272N, and A320–273N airplanes; and Model A321–111, A321–112, A321–131, A321–211, A321–212, A321–213, A321–231, A321–232, A321–251N, A321–252N, A321–253N, A321–271N, A321–272N, A321–251NX, A321–252NX, A321–253NX, A321–271NX, and A321–272NX airplanes. Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would

apply to all Airbus SAS Model A318 series airplanes; Model A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A319–151N, and A319–153N airplanes; Model A320 series airplanes; and Model A321 series airplanes. The NPRM published in the **Federal Register** on October 1, 2020 (85 FR 61884). The NPRM was prompted by the results of laboratory tests on non-rechargeable lithium batteries installed in ELTs, which highlighted a lack of protection against certain currents that could lead to thermal runaway and a battery fire. The NPRM proposed to require modifying a certain ELT by installing a diode in the airplane circuit connecting the ELT battery, as specified in an EASA AD.

The FAA is issuing this AD to address this unsafe condition, which could result in local (temporary) fires and could result in damage to the airplane and injury to occupants. See the MCAI for additional background information.

Comments

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

Request To Allow the Use of Additional Service Information

American Airlines (AA) requested that operators be allowed to use the following Airbus SAS technical adaptations (TAs) during accomplishment of the related Airbus SAS service bulletins that are specified in EASA AD 2020–0103. The commenter noted that certain airplane maintenance manual (AMM) tasks referred to in Airbus SAS Service Bulletin A320–25–1BQN, dated December 5, 2019; and Service Bulletin A320–25–1BQP, dated December 5, 2019; are incorrect. The commenter stated that it contacted Airbus SAS regarding this issue and Airbus SAS' response was that there is no planned revision to these service bulletins to correct the references to the incorrect AMM tasks.

The FAA agrees with the commenter's request for the reason provided. The FAA has added paragraph (h)(4) to this AD to allow use of the correct TAs.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0103 describes procedures for modifying a certain ELT by installing a diode in the airplane circuit connecting the ELT battery.

Airbus SAS has issued the following TAs, which specify the correct AMM tasks for doing the BITE [built-in test equipment] test of the ELT specified in the related Airbus SAS service bulletins. These TAs are distinct since they apply to different service bulletins specified in EASA AD 2020–0103.

- Airbus SAS TA 80724343/009/2020, Issue 1, dated May 20, 2020.
- Airbus SAS TA 80832689/007/2020, Issue 2, dated October 29, 2020.

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

Clarification of Maintenance Activities With an Affected Part

EASA AD 2020–0103 defines an affected part as an ELT having part number (P/N) 01N65900. When the modification (installation of a diode) is completed, the part number of the ELT does not change. The intent of paragraph (1) of EASA AD 2020–0103 is to require, for airplanes that have an affected ELT installed, operators to do the modification within 24 months. For these airplanes, operators can remove an ELT having P/N 01N65900 and reinstall that same part during maintenance activities within the 24 month compliance for doing the modification. After the modification is done, operators can install an ELT having P/N 01N65900 as long as the modification is not removed.

Costs of Compliance

The FAA estimates that this AD affects 1,100 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$450	$705	$775,500

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–17 Airbus SAS: Amendment 39–21400; Docket No. FAA–2020–0900; Product Identifier 2020–NM–080–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

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

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

(2) Model A319–111, A319–112, A319–113, A319–114, A319–115, A319–131, A319–132, A319–133, A319–151N, and A319–153N airplanes.

(3) Model A320–211, A320–212, A320–214, A320–216, A320–231, A320–232, A320–233, A320–251N, A320–252N, A320–253N, A320–271N, A320–272N, and A320–273N airplanes.

(4) Model A321–111, A321–112, A321–131, A321–211, A321–212, A321–213, A321–231, A321–232, A321–251N, A321–252N, A321–253N, A321–271N, A321–272N, A321–251NX, A321–252NX, A321–253NX, A321–271NX, and A321–272NX airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Reason

This AD was prompted by the results of laboratory tests on non-rechargeable lithium batteries installed in emergency locator transmitters (ELT), which highlighted a lack of protection against currents of 28 volts DC or 115 volts AC that could lead to thermal runaway and a battery fire. The FAA is issuing this AD to address this unsafe condition, which could result in local (temporary) fires, and could result in damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0103, dated May 7, 2020; corrected May 8, 2020 (EASA AD 2020–0103).

(h) Exceptions to EASA AD 2020–0103

(1) Where EASA AD 2020–0103 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0103 does not apply to this AD.

(3) Where paragraph (3) of EASA AD 2020–0103 specifies the parts installation limitation, for this AD, comply with paragraph (i) of this AD.

(4) This AD allows the use of the airplane maintenance manual (AMM) tasks for the BITE [built-in test equipment] test of the ELT specified in the Airbus SAS technical adaptations (TAs) identified in paragraphs (h)(4)(i) and (ii) of this AD, in lieu of the AMM tasks specified in the applicable Airbus SAS service bulletins specified in EASA AD 2020–0103.

(i) Airbus SAS TA 80724343/009/2020, Issue 1, dated May 20, 2020.

(ii) Airbus SAS TA 80832689/007/2020, Issue 2, dated October 29, 2020.

(i) Parts Installation Limitation

(1) For airplanes that do not have an ELT having part number (P/N) 01N65900 installed as of the effective date of this AD: As of the effective date of this AD, no person may install an ELT having P/N 01N65900 on any airplane unless the airplane has been modified as required by paragraph (1) of EASA AD 2020–0103.

(2) For airplanes that have an ELT having P/N 01N65900 installed as of the effective date of this AD: After modification of the airplane as required by paragraph (1) of EASA AD 2020–0103, no person may install an ELT having P/N 01N65900 on that airplane if the modification is removed.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraphs (h)(4) and (j)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

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

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0103, dated May 7, 2020; corrected May 8, 2020.

(ii) Airbus SAS Technical Adaptation 80724343/009/2020, Issue 1, dated May 20, 2020.

Note 1 to paragraphs (l)(2)(ii) and (iii): The issue date of the document is identified only on the last page of the document.

(iii) Airbus SAS Technical Adaptation 80832689/007/2020, Issue 2, dated October 29, 2020.

(3) For EASA AD 2020–0103, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) For Airbus SAS service information, contact Airbus SAS, Airworthiness Office—EIAS, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *https://www.airbus.com.*

(5) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0900.

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

Issued on January 14, 2021.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03569 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0885; Project Identifier MCAI–2020–00997–A; Amendment 39–21424; AD 2021–04–03]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Model PC–24 airplanes. This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as improperly manufactured cockpit and cabin evaporator filters installed during production on some PC–24 airplanes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Pilatus Aircraft Ltd., CH–6371 Stans, Switzerland; phone: +41 848 24 7 365; email: *techsupport.ch@pilatus-aircraft.com;* website: *https://www.pilatus-aircraft.com/.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0885.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0885; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Pilatus Model PC–24 airplanes with certain part-numbered evaporator filter assemblies installed. The NPRM published in the **Federal Register** on November 23, 2020 (85 FR 74627). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA has issued EASA AD No. 2020–0160, dated July 16, 2020 (referred to after this as ''the MCAI''), to address the unsafe condition on Pilatus Model PC–24 airplanes. The MCAI states:

> An occurrence was reported where, during production, cockpit and cabin evaporator filters were installed on some PC–24 aeroplanes, which were not the proper parts for the affected configuration.
>
> This condition, if not corrected, could degrade the fire retardant properties of the filters, possibly resulting in an increase in smoke in the cockpit/cabin in case of electrical heater over-temperature.
>
> To address this potential unsafe condition, Pilatus issued the [service bulletin] SB to provide replacement instructions.
>
> For the reason described above, this AD requires replacement of affected parts with serviceable parts, as defined in this [EASA] AD, and prohibits (re) installation of affected parts.

Due to a quality escape, the fire retardant used in the original filters installed in production is not sufficient for the conditions in this configuration, which is close to the heater and blowers.

The MCAI can be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0885.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pilatus PC–24 Service Bulletin No. 21–006, dated April 3, 2020. This service information specifies procedures replace the cockpit and cabin evaporator filters with new filters contained in a modification kit. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Differences Between This AD and the MCAI

This AD applies to airplanes with a defective filter installed, whereas the EASA AD applies to airplanes that do not have the modification kit, which was installed in production. This AD identifies the individual part numbers (P/Ns) of the defective filters to address any airplanes that may have had a modification kit filter replaced with a defective filter in the field before this AD becomes effective. This AD also applies to airplanes with a filter where the P/N is unknown. Pilatus advises that the defective filters can only be identified by their packing documents,

as they do not have a permanent P/N marked on the actual part. The new filters in the modification kit do have a permanent marking on the frame of the actual part.

Costs of Compliance

The FAA estimates that this AD will affect 36 airplanes of U.S. registry. The FAA also estimates that it would take 2.5 work-hours per product to comply with the requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $575 per product, if all 4 filters would need to be replaced.

Based on these figures, the FAA estimates the cost of this AD on U.S. operators to be $28,350, or $787.50 per product.

The FAA has included all costs in this cost estimate. According to the manufacturer, however, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–04–03 Pilatus Aircraft Ltd.: Amendment 39–21424; Docket No. FAA–2020–0885; Project Identifier MCAI–2020–00997–A.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Model PC–24 airplanes, all serial numbers, certificated in any category, with any of the following evaporator filter assemblies installed, or if the part number (P/N) of the evaporator filter assembly is unknown:

(1) Cockpit filter assembly P/N 959.90.20.291 (PC24EC–6068–1);

(2) Cabin front filter assembly P/N 959.90.20.290 (PC24EC–6287–1);

(3) Cabin bottom filter assembly P/N 959.90.20.288 (PC24EC–6288–1); or

(4) Cabin top filter assembly P/N 959.90.20.289 (PC24EC–6297–1).

Note 1 to paragraph (c): The P/N in parenthesis is an alternative vendor P/N.

(d) Subject

Joint Aircraft System Component (JASC) Code 2100, AIR CONDITIONING SYSTEM.

(e) Unsafe Condition

This AD was prompted by a reported occurrence where, during production, cockpit and cabin evaporator filters produced with degraded fire retardant properties were installed on some Model PC–24 airplanes. The FAA is issuing this AD to detect improper cockpit and cabin evaporator filters installed on Model PC–24 airplanes. The unsafe condition, if not addressed, could result in filters with degraded fire retardant properties, resulting in smoke in the cockpit and cabin in the event of electrical heater over-temperature.

(f) Actions and Compliance

(1) Within 4 months after the effective date of this AD, unless already done, remove each filter assembly from service and replace with a filter assembly as specified in table 1 to paragraph (f)(1) of this AD by following the Accomplishment Instructions, sections 3A. through 3C., of Pilatus PC–24 Service Bulletin No. 21–006, dated April 3, 2020.

TABLE 1 TO PARAGRAPH (f)(1)—EVAPORATOR FILTER ASSEMBLIES

Item	Remove filter P/N	Replace with filter P/N
Cockpit filter assembly	P/N 959.90.20.291 or PC24EC–6068–1	P/N 959.90.20.303 or PC24EC–6068–5.
Cabin front filter assembly	P/N 959.90.20.290 or PC24EC–6287–1	P/N 959.90.20.304 or PC24EC–6287–5.
Cabin bottom filter assembly	P/N 959.90.20.288 or PC24EC–6288–1	P/N 959.90.20.305 or PC24EC–6288–5.
Cabin top filter assembly	P/N 959.90.20.289 or PC24EC–6297–1	P/N 959.90.20.306 or PC24EC–6297–5.

(2) As of the effective date of this AD, do not install an evaporator filter assembly with a P/N listed in paragraph (c) of this AD on any airplane.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to Doug Rudolph, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(h) Related Information

Refer to European Union Aviation Safety Agency (EASA) AD No. 2020–0160, dated

July 16, 2020, for more information. You may examine the EASA AD at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0885.

(i) Material Incorporated by Reference

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

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

(i) Pilatus PC–24 Service Bulletin No. 21–006, dated April 3, 2020.

(ii) [Reserved]

(3) For Pilatus Aircraft Ltd. service information identified in this AD, contact Pilatus Aircraft Ltd., CH–6371 Stans, Switzerland; phone: +41 848 24 7 365; email: *techsupport.ch@pilatus-aircraft.com;* website: *https://www.pilatus-aircraft.com/.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued on February 1, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03494 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0976; Product Identifier 2020–NM–095–AD; Amendment 39–21423; AD 2021–04–02]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–04–22, which applied to certain Dassault Aviation Model FALCON 2000EX airplanes. AD 2020–04–22 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD continues to require the actions in AD 2020–04–22 and also requires revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 4, 2020 (85 FR 17487, March 30, 2020).

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* For Dassault Aviation service information identified in this final rule, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *https://www.dassaultfalcon.com.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0976.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0976; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0114, dated May 20, 2020 (EASA AD 2020–0114) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition all Dassault Aviation Model FALCON 2000EX airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–04–22, Amendment 39–19858 (85 FR 17487, March 30, 2020) (AD 2020–04–22). AD 2020–04–22 applied to certain Dassault Aviation Model FALCON 2000EX airplanes. The NPRM published in the **Federal Register** on November 3, 2020 (85 FR 69522). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to continue to require the actions in AD 2020–04–22 and also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, as specified in EASA AD 2020–0114.

The FAA is issuing this AD to address reduced structural integrity of the airplane. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0114 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 12, dated November 2018, of the Dassault Falcon 2000EX Maintenance Manual, which the Director of the Federal Register approved for incorporation by reference as of May 4, 2020 (85 FR 17487, March 30, 2020).

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

Costs of Compliance

The FAA estimates that this AD affects 17 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2020–04–22 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new revision to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–04–22, Amendment 39–19858 (85 FR 17487, March 30, 2020), and

■ b. Adding the following new AD:

2021–04–02 Dassault Aviation: Amendment 39–21423; Docket No. FAA–2020–0976; Product Identifier 2020–NM–095–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

(1) This AD replaces AD 2020–04–22, Amendment 39–19858 (85 FR 17487, March 30, 2020) (AD 2020–04–22).

(2) This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (AD 2010–26–05).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 2000EX airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before February 15, 2020.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Maintenance or Inspection Program Revision, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2020–04–22, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 15, 2019: Within 90 days after May 4, 2020 (the effective date of AD 2020–04–22), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 12, dated November 2018, of the Dassault Falcon 2000EX Maintenance Manual. The initial compliance times for doing the tasks are at the time specified in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 12, dated November 2018, of the Dassault Falcon 2000EX Maintenance Manual, or within 90 days after May 4, 2020, whichever occurs later; except for task number 52–20–00–610–801–01, the initial compliance time is within 24 months after October 8, 2014 (the effective date of AD 2014–16–12, Amendment 39–17936 (79 FR 52187, September 3, 2014)). The term ''LDG'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means total airplane landings. The term ''FH'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means total flight hours. The term ''FC'' in the ''First Inspection'' column of any table in the service information specified in this paragraph means total flight cycles. Accomplishing the maintenance or inspection program revision required by paragraph (i) of this AD terminates the requirements of this paragraph.

(h) Retained Provision: No Alternative Actions or Intervals, With a New Exception

This paragraph restates the requirements of paragraph (j) of AD 2020–04–22, with a new exception. Except as required by paragraph (k) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (m)(1) of this AD.

(i) New Maintenance or Inspection Program Revision

Except as specified in paragraph (j) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0114, dated May 20, 2020 (EASA AD 2020–0114). Accomplishing the maintenance or inspection program revision required by this paragraph terminates the requirements of paragraph (g) of this AD.

(j) Exceptions to EASA AD 2020–0114

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0114 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2020–0114 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the ''limitations, tasks and associated thresholds and intervals'' specified in paragraph (3) of EASA AD 2020–0114 within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2020–0114 is at the applicable ''associated thresholds'' specified in paragraph (3) of EASA AD 2020–0114, or within 90 days after the effective date of this AD, whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0114 do not apply to this AD.

(5) The ''Remarks'' section of EASA AD 2020–0114 does not apply to this AD.

(k) New Provisions for Alternative Actions and Intervals

After the maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections), and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0114.

(l) Terminating Action for Certain Actions in AD 2010–26–05

Accomplishing the actions required by paragraph (g) or (i) of this AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, for Dassault Aviation Model FALCON 2000EX airplanes only.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(n) Related Information

For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov.*

(o) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on March 30, 2021.

(i) European Union Aviation Safety Agency (EASA) AD 2020–0114, dated May 20, 2020.

(ii) [Reserved]

(4) The following service information was approved for IBR on May 4, 2020 (85 FR 17487, March 30, 2020).

(i) Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 12, dated November 2018, of the Dassault Falcon 2000EX Maintenance Manual.

(ii) [Reserved]

(5) For EASA AD 2020–0114, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* For Dassault Aviation material, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *https://www.dassaultfalcon.com.*

(6) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0976.

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

Issued on February 1, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03576 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1020; Project Identifier MCAI–2020–00988–T; Amendment 39–21401; AD 2021–02–18]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes. This AD was prompted by cracks found on certain left- and right-hand stringers in a certain area of the fuselage. This AD requires repetitive inspections for cracking or broken rivets of certain left- and right-hand stringers and surrounding structure, and repair if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://*

www.regulations.gov by searching for and locating Docket No. FAA–2020–1020.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1020; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *shahram.daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0159, dated July 16, 2020 (EASA AD 2020–0159) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes. The NPRM published in the **Federal Register** on November 10, 2020 (85 FR 71583). The NPRM was prompted by cracks found on certain left- and right-hand stringers in a certain area of the fuselage. The NPRM proposed to require repetitive inspections for cracking or broken rivets of certain left- and right-hand stringers and surrounding structure, and repair if necessary, as specified in an EASA AD.

The FAA is issuing this AD to address such cracking in the stringers, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0159 describes procedures for repetitive detailed visual (DET) or high frequency eddy current inspections of the stringer P0a and P0a' at the riveted line of the attachment to the gusset and along the stringer head, in particular at the area of the last attachment of the gusset to the stringer in the midpoint between frame (FR) 43 and FR44, repetitive DET inspections for fatigue cracks of the fuselage skin, along the stringers' footprint and surrounding structure and the attachment of the gusset to the FR43; repetitive DET inspections for fatigue cracks of the actuator bracket on FR43, along the radius of the vertical nerves, inner lug holes, and attachment holes of the bracket to FR43; repetitive DET inspections for fatigue cracks or broken rivets in the web and joint clips to skin and stringer of both sides of the frame between stringer P1d and P1d' (two stringers for each side from the central stringer P0a); repetitive DET inspections for fatigue cracks or broken rivets of the gussets, along the flange which joins FR43; and repair of any cracking or broken rivets.

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

Interim Action

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this AD affects 8 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × $85 per hour = $170	$0	$170	$1,360

The FAA has received no definitive data that enables providing cost estimates for the on-condition action specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–18 Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Amendment 39–21401; Docket No. FAA–2020–1020; Project Identifier MCAI–2020–00988–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes and Model C–295 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by cracks found on certain left- and right-hand stringers in the area of frame (FR) 43 of the fuselage. The FAA is issuing this AD to address such cracking in the stringers, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0159, dated July 16, 2020 (EASA AD 2020–0159).

(h) Exceptions to EASA AD 2020–0159

(1) Where EASA AD 2020–0159 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0159 does not apply to this AD.

(3) Where EASA AD 2020–0159 lists a compliance time of ''during the next A-check, or within 300 FH [flight hours] after the effective date of this AD, whichever occurs later,'' this AD requires using a compliance time of within 300 FH after the effective date of this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0159 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3220; email *shahram.daneshmandi@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0159, dated July 16, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0159, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1020.

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

Issued on January 14, 2021.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03570 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1035; Project Identifier MCAI–2020–01017–T; Amendment 39–21430; AD 2021–04–09]

RIN 2120–AA64

Airworthiness Directives; Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Yaborã Indústria Aeronáutica S.A. Model EMB–135, EMB–145, –145EP, –145ER, –145LR, –145MP, –145MR, and –145XR airplanes. This AD was prompted by reports that calculations provided by the automatic takeoff thrust control system (ATTCS) are incorrect under certain conditions. This AD requires updating the software of the installed full authority digital engine control (FADEC) systems, as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference. The FAA is issuing this AD

to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For ANAC material incorporated by reference (IBR) in this AD, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, BRAZIL, Tel: 55 (12) 3203–6600; Email: *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this IBR material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1035.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1035; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2020–07–02, effective July 21, 2020 (ANAC AD 2020–07–02) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Yaborã Indústria Aeronáutica S.A. Model EMB–135, EMB–145, –145EP, –145ER, –145LR, –145MP, –145MR, and –145XR airplanes. Model EMB–145EU, EMB–145LU, and EMB–145MK airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Yaborã Indústria Aeronáutica S.A. Model EMB–135, EMB–145, –145EP, –145ER, –145LR, –145MP, –145MR, and –145XR airplanes. The NPRM published in the **Federal Register** on November 27, 2020 (85 FR 75964). The NPRM was prompted by reports that calculations provided by the ATTCS are incorrect under certain conditions. The NPRM proposed to require updating the software of the installed FADEC systems, as specified in ANAC AD 2020–07–02.

Comments

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

Changes Made to This AD

Paragraph (c) of this AD has been revised to correct the reference to Model EMB–145ER airplanes.

Certain paragraph designations have been corrected in the regulatory text of this AD.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

ANAC AD 2020–07–02 describes procedures for updating the software of the installed FADEC systems to version B9.4 or B9.4.1. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 494 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
5 work-hours × $85 per hour = $425	$0	$425	$209,950

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a

substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–04–09 Yaborã Indústria Aeronáutica S.A. (Type Certificate Previously Held by Embraer S.A.): Amendment 39–21430; Docket No. FAA–2020–1035; Project Identifier MCAI–2020–01017–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Yaborã Indústria Aeronáutica S.A. Model EMB–135BJ, –135ER, –135KE, –135KL, and –135LR airplanes; and Model EMB–145, –145EP, –145ER, –145LR, –145MP, –145MR, and –145XR airplanes; certificated in any category; as identified in Agência Nacional de Aviação Civil (ANAC) AD 2020–07–02, effective July 21, 2020 (ANAC AD 2020–07–02).

(d) Subject

Air Transport Association (ATA) of America Code 73, Engine fuel and control.

(e) Reason

This AD was prompted by reports that calculations provided by the automatic takeoff thrust control system (ATTCS) are incorrect under certain conditions. The FAA is issuing this AD to address the risk of over-prediction of the operational margins, without the necessary alert being provided to the flightcrew in some situations. This condition, if not corrected, could lead to a performance reduction during takeoff, in which case the airplane may not be able to take off safely.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2020–07–02.

(h) Exceptions to ANAC AD 2020–07–02

(1) Where ANAC AD 2020–07–02 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Alternative method of compliance (AMOC)'' section of ANAC AD 2020–07–02 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or ANAC; or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(j) Related Information

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

(k) Material Incorporated by Reference

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

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

(i) Agência Nacional de Aviação Civil (ANAC) AD 2020–07–02, effective July 21, 2020.

(ii) [Reserved]

(3) For ANAC AD 2020–07–02, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, BRAZIL, Tel: 55 (12) 3203–6600; Email: *pac@anac.gov.br;* internet *www.anac.gov.br/en/.* You may find this IBR material on the ANAC website at *https://sistemas.anac.gov.br/certificacao/DA/DAE.asp.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1035.

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

Issued on February 5, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–03586 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0813; Product Identifier 2019–CE–040–AD; Amendment 39–21387; AD 2021–02–04]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Pilatus Aircraft Ltd. (Pilatus) Model PC–12/47E airplanes. This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as

inboard flap fairings aft (IFFAs) having an incorrect shape, which may result in chafing between the IFFA and the associated front inboard tension rod. This AD requires an inspection of the IFFAs for the correct shape and chafing between the IFFA and the associated front inboard tension rod, with corrective action as necessary. This condition could lead to failure of the inboard flap drive arm with consequent asymmetric flap extension, resulting in reduced control of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Pilatus Aircraft, Ltd., Customer Support PC–12, CH–6371 Stans, Switzerland; phone: +41 41 619 33 33; fax: +41 41 619 73 11; email: *supportPC12@pilatus-aircraft.com;* website: *https://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0813.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0813; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Pilatus Model PC–12/47E airplanes. The NPRM published in the **Federal Register** on September 16, 2020 (85 FR 57804). In the NPRM, the FAA proposed to require an inspection of the IFFAs for the correct shape and chafing between the IFFA and the associated front inboard tension rod, with corrective action as necessary.

The NPRM was based on MCAI from the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued AD No.: 2019–0231, dated September 13, 2019 (referred to after this as ''the MCAI''), to correct an unsafe condition for Pilatus Model PC–12/47E airplanes. The MCAI states:

> On the final assembly line of PC–12/47E aeroplanes, IFFAs were detected having an incorrect shape. As a consequence, chafing between the IFFA and the associated front inboard tension rod could occur, may cause corrosion of the bare rod aluminium tube and reduce aluminium thickness.
>
> This condition, if not detected and corrected, could lead to failure of the inboard flap drive arm with consequent asymmetric flap extension, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Pilatus issued the [service bulletin] SB to provide inspection and modification instructions.
>
> For the reason described above, this [EASA] AD requires a one-time inspection of both IFFA and, depending on findings, a follow-on inspection of the associated front inboard tension rod for chafing, and modification or replacement of affected parts.

You may examine the MCAI at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0813.

Discussion of Final Airworthiness Directive

Comments

The FAA received two comments from Pilatus. The following presents the comments received on the NPRM and the FAA's response to each comment.

Pilatus requested the FAA reduce the applicability of the proposed AD from all Model PC–12/47E airplanes to Model PC–12/47E airplanes with serial number (S/N) 1576 and higher. Pilatus stated that due to an engineering change in 2014, the left-hand (LH) IFFA, part number (P/N) 557.52.12.223, and the right-hand (RH) IFFA, P/N 557.52.12.224, introduced on airplanes with S/N 1576 and higher, have different attachment hole positions and a maximum hole position difference of more than 12mm. As a result, it is not physically possible to install P/Ns 557.52.12.223 and 557.52.12.224 on airplanes with an S/N lower than 1576.

The FAA partially agrees. The commenter is correct that the affected IFFAs cannot be installed on Model PC–12/47E airplanes with an S/N lower than 1576. The FAA has revised paragraph (f) of this AD to limit the inspection of the IFFAs to airplanes with an S/N 1576 and higher.

Pilatus acknowledged that tension rod P/N 527.52.12.135 can be installed on all Model PC–12/47E airplanes but requested the FAA limit the tension rod inspection for airplanes with an S/N lower than 1576 to only those with maintenance records showing that the tension rod had been installed.

The FAA partially agrees. The FAA has revised the tension rod inspection to limit its scope for airplanes with an S/N lower than 1576. Because the tension rods are not life-limited parts, there is no regulatory requirement for them to be serialized or for operators to record or retain information about the part's traceability. Therefore, operators would be unable to comply with, and the FAA would be unable to enforce, the change requested by the commenter, as maintenance records may not identify if a tension rod was removed from an airplane with an S/N 1576 or higher. Instead, the FAA has changed the AD so that the inspection of the tension rod is required for all airplanes with a S/N 1576 or higher and for airplanes with a S/N 1001 through 1575 if tension rod P/N 527.52.12.135 is installed.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for the changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pilatus PC–12 Service Bulletin No: 27–026, dated July 10, 2019 (Pilatus SB No. 27–026). The service information specifies procedures for inspecting and correcting chafing between the left and right IFFAs and the associated front inboard tension rods. This service information is reasonably available because the interested parties have access to it through their normal

course of business or by the means identified in **ADDRESSES**.

Differences Between This AD and the MCAI

The MCAI only requires inspection of the tension rods if the IFFAs are modified because they have been found to have the incorrect shape. Due to the length of time between manufacture and the issuance of this AD, operators could have installed an affected tension rod onto an airplane that was not manufactured with the defective part. Therefore, this AD requires inspection for chafing damage on the tension rods on all Model PC–12/47E airplanes that have an affected tension rod installed.

Costs of Compliance

The FAA estimates that this AD will affect 18 products of U.S. registry. The FAA also estimates that it will take about 2.5 work-hours per product to comply with the requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $1,600 per product.

Based on these figures, the FAA estimates the cost of this AD on U.S. operators will be $32,634 or $1,813 per product.

The FAA has included all costs in this cost estimate. According to the manufacturer, however, all or some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–04 Pilatus Aircraft Ltd.: Amendment 39–21387; Docket No. FAA–2020–0813; Product Identifier 2019–CE–040–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Model PC–12/47E airplanes, all serial numbers (S/Ns), certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2700: Flight Controls.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as inboard flap fairings aft (IFFAs) having an incorrect shape. The FAA is issuing this AD to prevent chafing between the IFFA and the front inboard tension rod, and consequent corrosion of the bare rod aluminum tube and reduced aluminum thickness. This condition, if not corrected, could lead to failure of the inboard flap drive arm, asymmetric flap extension, and reduced control of the airplane.

(f) Actions and Compliance

(1) For airplanes with a S/N 1576 and higher, unless already done, within 100 hours time-in-service (TIS) after the effective date of this AD or within 6 months after the effective date of this AD, whichever occurs first, inspect the left-hand (LH) and right-hand (RH) IFFAs for correct shape and clearance with the LH and RH tension rods by following step 3.B.(1) and Figures 2 and 3 of the Accomplishment Instructions—Aircraft in Pilatus PC–12 Service Bulletin No: 27–026, dated July 10, 2019 (Pilatus SB 27–026).

(i) If the shape of the LH or RH IFFA is incorrect or if the clearance between the IFFA and the tension rod is less than 5 mm (0.2 inch), before further flight, modify the IFFA and inspect the tension rods for chafing by following section 3.C. of the Accomplishment Instructions—Aircraft in Pilatus SB 27–026.

(ii) If the shape of the LH and RH IFFAs is correct and the clearance between the IFFA and the tension rod is at least 5 mm (0.2 inch), before further flight, inspect the front inboard LH and RH tension rods for chafing by following step 3.C.(12)(a) of the Accomplishment Instructions—Aircraft in Pilatus SB 27–026. If the LH or RH tension rod has any chafing, before further flight, replace the tension rod by following step 3.C.(12)(b) of the Accomplishment Instructions—Aircraft in Pilatus SB 27–026.

(2) For airplanes with a S/N 1001 through S/N 1575, inclusive, that have a tension rod part number (P/N) 527.52.12.135 installed, unless already done, within 100 hours TIS after the effective date of this AD or within 6 months after the effective date of this AD, whichever occurs first, inspect the front inboard LH and RH tension rods for chafing by following step 3.C.(12)(a) of the Accomplishment Instructions—Aircraft in Pilatus SB 27–026. If the LH or RH tension rod has any chafing, before further flight, replace the tension rod by following step 3.C.(12)(b) of the Accomplishment Instructions—Aircraft in Pilatus SB 27–026.

(3) For all Model PC–12/47E airplanes, as of the effective date of this AD, do not install on any airplane an LH IFFA P/N 557.52.12.223, RH IFFA P/N 557.52.12.224, or tension rod P/N 527.52.12.135 unless the part has been inspected and all corrective actions have been taken as required by this AD.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD if requested using the procedures found in 14 CFR 39.19. Send information to Doug Rudolph, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(h) Related Information

(1) Refer to MCAI European Union Aviation Safety Agency AD No. 2019–0231, dated September 13, 2019, for related information. You may examine the MCAI at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0813.

(2) For service information related to this AD, contact Pilatus Aircraft, Ltd., Customer Support PC–12, CH–6371 Stans, Switzerland; phone: +41 41 619 33 33; fax: +41 41 619 73 11; email: *supportPC12@pilatus-aircraft.com;* website: *https://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(i) Material Incorporated by Reference

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

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

(i) Pilatus Service Bulletin No: 27–026, dated July 10, 2019.

(ii) [Reserved]

(3) For Pilatus Aircraft Ltd. service information identified in this AD, contact Pilatus Aircraft, Ltd., Customer Support PC–12, CH–6371 Stans, Switzerland; phone: +41 41 619 33 33; fax: +41 41 619 73 11; email: *supportPC12@pilatus-aircraft.com;* website: *https://www.pilatus-aircraft.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued on January 6, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03476 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0843; Product Identifier 2020–NM–073–AD; Amendment 39–21420; AD 2021–03–17]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 airplanes. This AD was prompted by a report of smoke and signs of an overheating condition from the emergency light battery (ELB) due to excessive corrosion surrounding the internal lead acid batteries, which caused an electrical short circuit that led to the smoke and overheating condition. This AD requires an inspection to determine the last replacement date of the ELB, and replacement if necessary. This AD also requires the incorporation of a new maintenance task into the existing maintenance or inspection program. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0843.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0843; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2020–07, dated March 17, 2020 (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0843.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD–700–1A10 airplanes. The NPRM published in the **Federal Register** on September 17, 2020 (85 FR 58010). The NPRM was prompted by a report of smoke and signs of an overheating condition from the ELB due to excessive corrosion surrounding the internal lead acid batteries, which caused an electrical short circuit that led to the smoke and overheating condition. The NPRM proposed to require an inspection to determine the last replacement date of the ELB, and replacement if necessary. The NPRM also proposed to require the incorporation of a new maintenance task into the existing maintenance or inspection program. The FAA is issuing this AD to address smoke and an overheating condition of the ELB due to corrosion, which could cause fire onboard the airplane. See the MCAI for additional background information.

Comments

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

Request To Update Bombardier Email Address

Bombardier requested that the FAA revise the NPRM to update the email address for obtaining the specified service information from ''*thd.crj@aero.bombardier.com*'' to ''*ac.yul@aero.bombardier.com*.''

The FAA agrees with the request and has revised this final rule accordingly.

Clarifications of Compliance Times

The FAA has revised paragraph (g) of this AD to clarify when replacement is required. This clarification explains that replacement is required if, during the inspection required by paragraph (g) of this AD, any last replacement date or manufacturing date is found to be 4 years or older.

The FAA has also revised paragraph (h)(2) of this AD to clarify that the compliance time of within 48 months is related to the applicable date specified in paragraph (h)(2)(i) or (ii) of this AD. The proposed AD inadvertently stated that the compliance time was ''[w]ithin 48 months after the applicable compliance time specified in paragraph (h)(2)(i) or (ii) of this AD,'' but paragraphs (h)(2)(i) and (ii) of this AD specify dates, not compliance times.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 700–33–024, dated May 13, 2019. This service information describes procedures for an inspection to determine the last battery replacement date of the ELB, and replacement if necessary.

Bombardier also issued the following service information.

- Global Express BD–700 Supplemental Time Limits/Maintenance Checks (STLMC) Temporary Revision (TR) 05–19091701, dated September 17, 2019.
- Global Express BD–700 STLMC TR 05–19091704, dated September 17, 2019.
- Global Express XRS BD–700 STLMC TR 05–19091705, dated September 17, 2019.

These documents describe an amendment to the aircraft maintenance schedule to include STLMC Chapter 5 task number 33–51–54–603, ''Restoration of the Emergency Lighting Batteries (XL245–B Emergency Battery System),'' and are distinct since they apply to different airplane serial numbers.

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

Costs of Compliance

The FAA estimates that this AD affects 69 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$11,308	$11,563	$797,847

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–03–17 Bombardier, Inc.: Amendment 39–21420; Docket No. FAA–2020–0843; Product Identifier 2020–NM–073–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–1A10 airplanes, certificated in any category, serial numbers 9002, 9003, 9011, 9016, 9020, 9022 through 9025 inclusive, 9029, 9031, 9032, 9036, 9039 through 9044 inclusive, 9046 through 9058 inclusive, 9060 through 9065 inclusive, 9067 through 9081 inclusive, 9083 through 9106 inclusive, 9108 through 9122 inclusive, 9124 through 9126 inclusive, 9128, 9129, 9133, 9134, 9136 through 9139 inclusive, 9141 through 9148 inclusive, 9150, 9151, 9153, 9159, 9162, 9163, 9165, and 9169.

(d) Subject

Air Transport Association (ATA) of America Code 33, Lights.

(e) Reason

This AD was prompted by a report of smoke and signs of an overheating condition from the emergency light battery (ELB) due to excessive corrosion surrounding the internal lead acid batteries, which caused an electrical short circuit that led to the smoke and overheating condition. The FAA is issuing this AD to address such conditions, which could cause fire onboard the airplane.

(f) Compliance

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

(g) Inspection and Corrective Action

Within 15 months after the effective date of this AD, inspect the ELB to determine the last replacement date or the manufacturing date, as applicable; if during this inspection, any date is found to be 4 years or older, replace the ELB before further flight. Do the actions in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 700–33–024, dated May 13, 2019. For airplanes on which the restoration task specified in paragraph (h) of this AD was done before the effective date of this AD, the requirements of paragraph (g) of this AD are not required.

(h) Maintenance or Inspection Program Revision

Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to include the information specified in Bombardier BD–700 Supplemental Time Limits/Maintenance Checks (STLMC) Chapter 5 task number 33–51–54–603, ''Restoration of the Emergency Lighting Batteries (XL245–B Emergency Battery System),'' in the Bombardier BD–700 STLMC, as specified in the applicable temporary revision identified in figure 1 to paragraph (h) of this AD. The initial compliance time for doing task 33–51–54–603 is at the applicable time specified in paragraph (h)(1) or (2) of this AD. Repeat task 33–51–54–603 thereafter at the interval specified within that task.

(1) If both ELBs were replaced at the time of compliance with paragraph (g) of this AD: Within 48 months after the ELB replacement.

(2) If neither ELB, or only one ELB, was replaced at the time of compliance with paragraph (g) of this AD: Within 48 months after the applicable date specified in paragraph (h)(2)(i) or (ii) of this AD.

(i) For each ELB, use the battery replacement date, if it is indicated.

(ii) For each ELB, use the date of manufacture, if it does not have a battery replacement date indicated.

Figure 1 to paragraph (h) – *Service Information*

Airplane Serial Number	Temporary Revision (TR)
9002, 9003, 9011, 9016, 9020, 9022 through 9025 inclusive, 9029, 9031, 9032, 9036, 9039 through 9044 inclusive, 9046 through 9058 inclusive, 9060 through 9065 inclusive, 9067 through 9081 inclusive, 9083 through 9106 inclusive, 9108 through 9122 inclusive, and 9124	Bombardier Global Express BD-700 STLMC TR 05-19091701, dated September 17, 2019
9125, 9126, 9128, 9129, 9133, 9134, 9136 through 9139 inclusive, 9141 through 9148 inclusive, 9150, 9151, and 9153	Bombardier Global Express BD-700 STLMC TR 05-19091704, dated September 17, 2019
9159, 9162, 9163, 9165, and 9169	Bombardier Global Express XRS BD-700 STLMC TR 05-19091705, dated September 17, 2019

(i) Misidentified Restoration Task

The following temporary revisions misidentified the required restoration task as task ''33–51–54–602.''

(1) Bombardier Global Express XRS BD–700 STLMC Temporary Revision 05–19032701, dated March 27, 2019.

(2) Bombardier Global Express BD–700 STLMC Temporary Revision 05–19040301, dated April 3, 2019.

(3) Bombardier Global Express BD–700 STLMC Temporary Revision 05–19040401, dated April 4, 2019.

(j) Compliance With Restoration Task for Airplanes On Which the Misidentified Task Was Accomplished

For airplanes on which the restoration task specified as task ''33–51–54–602'' in the applicable temporary revision identified in

paragraph (i) of this AD was done before the effective date of this AD:

(1) The actions specified in paragraph (g) of this AD are not required.

(2) The initial accomplishment of the task specified in paragraphs (h)(1) and (2) of this AD is not required.

(3) Task 33–51–54–603 must be done within 48 months after task ''33–51–54–602'' was accomplished, and thereafter at the intervals specified in task 33–51–54–603.

(k) No Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (h) of this AD, no alternative actions (*e.g.,* inspections) and intervals may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2020–07, dated March 17, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0843.

(2) For more information about this AD, contact Thomas Niczky, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7347; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(n) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 700–33–024, dated May 13, 2019.

(ii) Bombardier Global Express BD–700 Supplemental Time Limits/Maintenance Checks (STLMC) Temporary Revision (TR) 05–19091701, dated September 17, 2019.

(iii) Bombardier Global Express BD–700 STLMC TR 05–19091704, dated September 17, 2019.

(iv) Bombardier Global Express XRS BD–700 STLMC TR 05–19091705, dated September 17, 2019.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on January 29, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–03574 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0211; Product Identifier 2020–NM–006–AD; Amendment 39–21398; AD 2021–02–15]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, and 747SR series airplanes. This AD was prompted by reports of inboard foreflap departures from the airplane. This AD requires repetitive replacement of certain parts; a general visual inspection to determine production configuration for certain parts; a repetitive lubrication of certain parts and a repetitive general visual inspection of certain parts for any exuding grease; repetitive detailed inspections of certain parts for loose or missing attachment bolts, cracks or bushing migration, cracks or gouges, or broken, binding, or missing rollers; repetitive detailed inspections of certain parts for cracks or corrosion; repetitive lubrication; and on-condition actions if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0211.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0211; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Eric Lin, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3523; email: *eric.lin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, and 747SR series airplanes. The NPRM published in the **Federal Register** on May 18, 2020 (85 FR 29673). The NPRM was prompted by reports of inboard foreflap departures from the airplane. The NPRM proposed to require repetitive replacement of certain parts; a general visual inspection to determine production configuration for certain parts; a repetitive lubrication of certain parts and a repetitive general visual inspection of certain parts for any exuding grease; repetitive detailed inspections of certain parts for loose or missing attachment bolts, cracks or bushing migration, cracks or gouges, or broken, binding, or missing rollers; repetitive detailed inspections of certain parts for cracks or corrosion; repetitive lubrication; and on-condition actions if necessary.

The FAA is issuing this AD to address departures of the inboard foreflap assembly from the airplane, which could result in damage to the airplane and adversely affect the airplane's continued safe flight and landing.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International (ALPA) and Boeing expressed support for the NPRM.

Request To Incorporate Inspection and Overhaul Program

Atlas Air (Atlas) requested that the FAA revise the proposed AD to incorporate and provide credit for Atlas's flap inspection and overhaul program. Atlas explained that after four flap failure events, their flap mitigation team formulated a program of actions that successfully address the unsafe conditions cited in the NPRM.

The FAA acknowledges that alternative methods may exist to address the potential unsafe condition, but disagrees with the request to revise this AD to incorporate specific actions from the Atlas flap mitigation program. That program is unique to an individual operator, and Atlas has not provided the FAA substantiating data demonstrating that these proposed changes provide an equivalent level of safety. Atlas may apply for an AMOC with substantiating data. The FAA has not changed this AD with regard to this request.

Request for Change in Inspection Requirement

Cargolux (CLX) requested that the proposed inspection, as specified in Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019, Table 1, Action 2, no longer include identifying nuts with part number BACN10HR7CD. CLX explained that determining the part number by inspection is difficult due to access restrictions, and operators may have to replace the subject nuts to be compliant with the proposed AD.

The FAA disagrees with the requested exemption because it is unnecessary. Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019, Table 1, Action 2, specifies a ''general visual inspection of the inboard foreflap assembly stop, stop attachment bolts, stop lug attachment bolts, and rollers.'' The subject nuts are not specifically identified. Additionally, the service bulletin does not mandate a specific method of compliance for this inspection. It refers to Part 2 of Boeing Alert Service Bulletin 747–57A2367, dated November 15, 2019, where the subject nut is listed, as an accepted procedure. In accordance with Note 6 of the Accomplishment Instructions, ''when the words 'refer to' are used and the operator has an accepted alternative procedure, the accepted alternative procedure can be used.'' The FAA has not changed this AD regarding this request.

Request To Allow Alternative Part Numbers

CLX requested that approved alternative, substitute, or interchangeable part numbers for specified parts be allowed when demonstrating compliance. CLX is concerned that operators may have trouble obtaining parts if the parts have been replaced and there are interchangeable parts available in lieu of the required part number.

The FAA disagrees with the request. The design approval holder (DAH) identified the parts necessary to address the unsafe condition. Kits with those replacement part numbers may be acquired from the DAH. Additionally, CLX did not provide the FAA any substantiating data to demonstrate that any alternative/substitute part provides an acceptable level of safety. CLX may submit an AMOC request with supporting data that demonstrates an acceptable level of safety for a replacement part not specified in the service information. The FAA has not changed this AD regarding this request.

Request To Specify Document as Aid

Royal Dutch Airlines (KLM) and CLX requested that Boeing document 747–FTD–57–10002 be specified in the proposed AD as an aid for the general visual inspection described in Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019, to identify part numbers currently installed on the airplane. KLM and CLX claimed that dirt, grease, or sealant may prevent part numbers from being identified by way of a general visual inspection and that the document provided by Boeing should be used as a visual aid.

The FAA agrees with using visual aids or other documentation to help identify part numbers during the inspection. However, the FAA disagrees with revising the AD to require the specified document. Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019, refers to a procedure in Boeing Alert Service Bulletin 747–57A2367, dated November 15, 2019, as an accepted procedure for the general visual inspection to identify the parts production configuration. Note 6 of the Accomplishment Instructions states that ''when the words 'refer to' are used and the operator has an accepted alternative procedure, the accepted alternative procedure can be used.'' The FAA has not changed this AD regarding this request.

Request To Allow Optional Records Check

Both KLM and CLX requested that a maintenance records check be allowed as an option to the general visual inspection specified in Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019, for the purpose of identifying parts currently installed on the airplane. Both KLM and CLX stated that operators should be able to determine whether their maintenance records are accurate.

The FAA disagrees with the request. The service information was coordinated with the DAH and it was determined that a physical check, as specified in Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019, is required. This AD has not been changed regarding this request.

Request To Accept Work Package From Previous Service Bulletin

United Parcel Service (UPS) requested that the FAA also accept

accomplishment of Work Package 3 of Boeing Alert Service Bulletin 747–27–2366, Revision 3, dated March 22, 2016, in lieu of the initial inspection specified by Table 4 of Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019. UPS asserted that there is significant overlap between the two flap inspections.

The FAA does not agree with the request. The inspections specified in Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019, include additional structure to inspect, compared to Boeing Alert Service Bulletin 747–27–2366, Revision 3, dated March 22, 2016, and also specify corrective action if damage is detected. The requirements of this AD have been coordinated with the DAH. UPS did not provide the FAA any substantiating data to demonstrate that the less stringent inspections from Boeing Alert Service Bulletin 747–27–2366, Revision 3, dated March 22, 2016, provide an acceptable level of safety. The FAA has not changed this AD as a result of this comment.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019. This service information describes procedures for repetitive replacement of certain parts; a general visual inspection to determine production configuration for certain parts; a repetitive lubrication of certain parts and a repetitive general visual inspection of certain parts for any exuding grease; repetitive detailed inspections of certain parts for loose or missing attachment bolts, cracks or bushing migration, cracks or gouges, or broken, binding, or missing rollers; repetitive detailed inspections of certain parts for cracks or corrosion; repetitive lubrication; and on-condition actions if necessary. On-condition actions include replacements and repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 125 airplanes of U.S. registry. The FAA estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive replacement	Up to 10 work-hours × $85 per hour = Up to $850 per replacement cycle.	$35,719	Up to $36,569 per replacement cycle.	Up to $4,571,125 per replacement cycle.
General visual inspection for parts production configuration.	1 work-hour × $85 per hour = $85	0	$85	$10,625.
Repetitive detailed inspections	4 work-hours × $85 per hour = $340 per inspection cycle.	0	$340 per inspection cycle	$42,500 per inspection cycle.
Repetitive inspection for lubrication and repetitive lubrication.	1 work-hour × $85 per hour = $85 per lubrication.	0	$85 per lubrication	$10,625 per lubrication.

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

ESTIMATED COSTS OF ON-CONDITION REPLACEMENTS

Labor cost	Parts cost	Cost per product
Up to 8 work-hour × $85 per hour = $680	Up to $17,720	Up to $18,400.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–15 The Boeing Company: Amendment 39–21398; Docket No. FAA–2020–0211; Product Identifier 2020–NM–006–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, and 747SR series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by reports of inboard foreflap departures from the airplane. The FAA is issuing this AD to address departures of the inboard foreflap assembly from the airplane, which could result in damage to the airplane and adversely affect the airplane's continued safe flight and landing.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 747–57A2367, dated November 15, 2019, which is referred to in Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019.

(h) Exceptions to Service Information Specifications

Where Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019, uses the phrase ''the original issue date of Requirements Bulletin 747–57A2367 RB,'' this AD requires using ''the effective date of this AD.''

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

For more information about this AD, contact Eric Lin, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3523; email: *eric.lin@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 747–57A2367 RB, dated November 15, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on January 14, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03593 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0691; Product Identifier 2020–NM–064–AD; Amendment 39–21377; AD 2021–01–01]

RIN 2120–AA64

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

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD was prompted by evidence that a revised structural life limit of some components of the nose landing gear (NLG) and/or main landing gear (MLG) was not implemented during repair. This AD requires verifying that the affected components are installed on the airplane, revising the structural life limits in the existing structural deviation inspection requirements (SDIR) airplane document, and replacing affected components if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact MHI

RJ Aviation ULC, 12655 Henri-Fabre Blvd., Mirabel, Québec J7N 1E1, Canada; Widebody Customer Response Center North America toll-free telephone +1–844–272–2720 or direct-dial telephone +1–514–855–8500; fax +1–514–855–8501; email *thd.crj@mhirj.com;* internet *https://mhirj.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0691.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0691; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2020–09, dated April 7, 2020 (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0691.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The NPRM published in the **Federal Register** on October 5, 2020 (85 FR 62626). The NPRM was prompted by evidence that a revised structural life limit of some components of the NLG and/or MLG was not implemented during repair. The NPRM proposed to require verifying that the affected components are installed on the airplane, revising the structural life limits in the existing SDIR airplane document, and replacing affected components if necessary. The FAA is issuing this AD to address structural life limits that are lower than the life limit published in the Maintenance Requirements Manual (MRM), Part 2. This condition, if not corrected, could lead to the collapse of the affected NLG and/or MLG, possibly resulting in airplane damage and injury to the occupants. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. Air Line Pilots Association, International (ALPA) stated that it supports the NPRM.

Additional Change Made to This AD

This AD has been revised to provide the revised structural life limits in figure 1 to paragraph (h) of this AD instead of referencing the individual repair engineering orders (REOs) in paragraph (h) of this AD. The REOs did not meet the Office of the Federal Register's criteria for incorporation by reference.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued Service Bulletin 601R–32–112, dated November 11, 2019. This service information describes procedures for verifying that affected components are installed on the airplane, revising the structural life limits in the existing SDIR airplane document, and replacing affected parts if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 456 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 143 work-hours × $85 per hour = Up to $12,155	Up to $103,114	Up to $115,269	Up to $52,562,664.

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a

substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–01–01 MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–21377; Docket No. FAA–2020–0691; Product Identifier 2020–NM–064–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MHI RJ Aviation ULC (type certificate previously held by Bombardier, Inc.) Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 through 8999 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by evidence that a revised structural life limit of some components of the nose landing gear (NLG) and/or main landing gear (MLG) was not implemented during repair. The FAA is issuing this AD to address structural life limits that are lower than the life limits published in the Maintenance Requirements Manual (MRM), Part 2. This condition, if not corrected, could lead to the collapse of the affected NLG and/or MLG, possibly resulting in airplane damage and injury to the occupants.

(f) Compliance

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

(g) Verification of Airplane or Technical Records

Within 6 months from the effective date of this AD: Verify the airplane or technical records to determine if an NLG or MLG component listed in Table 1 or Table 2 of Bombardier Service Bulletin 601R–32–112, dated November 11, 2019, is installed on the airplane. If this verification determines that an affected component listed in Table 1 or Table 2 of Bombardier Service Bulletin 601R–32–112, dated November 11, 2019, is installed on the airplane, perform the actions specified in paragraph (h) or (i) of this AD, as applicable.

(h) Incorporation of the Structural Deviation Inspection Requirements (SDIR) Life Limit Into the Existing SDIR Airplane Document

If the total flight cycles of the component is less than the revised SDIR life limit identified in figure 1 to paragraph (h) of this AD minus 2,000 flight cycles: Within 12 months after completing the actions specified in paragraph (g) of this AD, incorporate the applicable revised life limit of the affected component into the existing SDIR airplane document as specified in figure 1 to paragraph (h) of this AD.

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Figure 1 to paragraph (h) – *Revised SDIR Life Limits*

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-11-086, Revision A, dated October 29, 2015	MLG Axle (P/N 17050-1)	73,644	47,026[1]	73,644	47,026[1]	[1] HAAO – Post Modsum TC601R15827 aircraft only
601R-32-11-089, Revision A, dated October 29, 2015	MLG Axle (P/N 17050-1)	73,644	47,026[1]	73,644	47,026[1]	[1] HAAO – Post Modsum TC601R15827 aircraft only
601R-32-11-183, Revision B, dated January 15, 2013	MLG Pintle Pin (P/N 17040-1)	57,760	55,645[1]	47,840	46,088[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-0367, Revision A, dated January 23, 2019	MLG Pintle Pin (P/N 17040-1)	80,000	80,000[1]	[2]	[1] [2]	[1] HAAO – Post-Modsum TC601R15827 aircraft only [2] Structure life limits for ATA NO. 32-11-118 specified in Part 2 of maintenance requirements manual still apply for 53,000 lbs. MTOW
601R-32-11-0627, Revision A, dated January 23, 2019	MLG Pintle Pin (P/N 17040-1)	43,240	41,650[1]	34,930	33,650[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-11-0630, Revision A, dated January 23, 2019	MLG Pintle Pin (P/N 17040-1)	57,760	55,645[1]	47,840	46,088[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-634, Revision A, dated October 29, 2015	MLG Axle (P/N 17050-1)	73,644	47,026[1]	73,644	47,026[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-0712, Revision A, dated January 23, 2019	MLG Pintle Pin (P/N 17040-1)	80,000	80,000[1]	[2]	[1] [2]	[1] HAAO – Post-Modsum TC601R15827 aircraft only [2] Structure life limits for ATA NO. 32-11-118 specified in Part 2 of maintenance requirements manual still apply for 53,000 lbs. MTOW
601R-32-11-0783, Revision A, dated January 23, 2019	MLG Pintle Pin (P/N 17040-1)	57,760	55,645[1]	47,840	46,088[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-786, Revision A, dated January 23, 2019	MLG Pintle Pin (P/N 17040-1)	43,240	41,650[1]	34,930	33,650[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-11-835, Revision A, dated October 29, 2015	MLG Axle (P/N 17050-1)	73,644	47,026[1]	73,644	47,026[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-0913, Revision C, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	74,200[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-918, Revision B, dated January 15, 2014	MLG Pintle Pin (P/N 17040-1)	80,000	80,000[1]	48,190	46,425[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-921, Revision A, dated October 29, 2015	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	74,026	67,976[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-0951, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-0955, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-11-956, Revision A, dated January 15, 2014	MLG Pintle Pin (P/N 17040-1)	43,240	41,240[1]	34,930	33,650[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-0958, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1017, Revision B, dated January 15, 2014	MLG Pintle Pin (P/N 17040-1)	80,000	80,000[1]	[2]	[1] [2]	[1] HAAO – Post-Modsum TC601R15827 aircraft only [2] Structure life limits for ATA NO. 32-11-118 specified in Part 2 of maintenance requirements manual still apply for 53,000 lbs. MTOW
601R-32-11-1041, Revision A, dated October 29, 2015	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	76,642[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-11-1084, Revision A, dated January 15, 2014	MLG Pintle Pin (P/N 17040-1)	80,000	80,000[1]	[2]	[1] [2]	[1] HAAO – Post-Modsum TC601R15827 aircraft only [2] Structure life limits for ATA NO. 32-11-118 specified in Part 2 of maintenance requirements manual still apply for 53,000 lbs. MTOW
601R-32-11-1153, Revision A, dated January 15, 2014	MLG Pintle Pin (P/N 17040-1)	80,000	80,000[1]	[2]	[1] [2]	[1] HAAO – Post-Modsum TC601R15827 aircraft only [2] Structure life limits for ATA NO. 32-11-118 specified in Part 2 of maintenance requirements manual still apply for 53,000 lbs. MTOW
601R-32-11-1154, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	76,642[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-11-1187, Revision B, dated January 23, 2019	MLG Axle (P/N 17050-3)	80,000	71,640[1]	80,000	71,640[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1206, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	74,200[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1219, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	74,200[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1220, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	74,200[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1224, Revision B, dated January 23, 2019	MLG Pivot Pin (P/N 17041-3)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1250, Revision A, dated January 15, 2014	MLG Pintle Pin (P/N 17040-1)	57,760	55,645[1]	47,840	46,088[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1251, Revision B, dated January 23, 2019	MLG Pivot Pin (P/N 17041-3)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-11-1255, Revision B, dated January 23, 2019	MLG Pivot Pin (P/N 17041-3)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1286, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1302, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1650, Revision A, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-11-1673, Revision A, dated January 23, 2019	MLG Axle (P/N 17050-3)	73,644	47,026[1]	73,644	47,026[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0225, Revision C, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-21-0227, Revision B, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-414, Revision A, dated February 25, 2015	NLG Axle (P/N 16124-101)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-489, Revision A, dated October 29, 2015	NLG Main Fitting (P/N 16114-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0526, Revision B, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-535, Revision A, dated February 17, 2015	NLG Pin (P/N 16404-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0536, Revision B, dated January 23, 2019	NLG Axle (P/N 16124-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-21-0555, Revision B, dated January 23, 2019	NLG Axle (P/N 16124-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0557, Revision B, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0562, Revision B, dated January 23, 2019	NLG Axle (P/N 16124-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-570, Revision A, dated February 25, 2015	NLG Axle (P/N 16124-1)	47,732	47,732[1]	39,370	39,370[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0635, Revision B, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0661, Revision B, dated January 23, 2019	NLG Main Fitting (P/N 16114-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-21-0663, Revision B, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0685, Revision B, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0689, Revision B, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0691, Revision B, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0692, Revision C, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-0693, Revision B, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

Bombardier Repair Engineering Order	Life Limited Component	DISCARD TIME/LIFE LIMIT (LANDINGS)				Notes
		51,000 lb. MTOW		53,000 lb. MTOW		
		TC/FAA Certification	TC/FAA Certification High Altitude Airfield Operation (HAAO)	TC/FAA Certification	TC/FAA Certification HAAO	
601R-32-21-1002, Revision A, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-21-1022, Revision A, dated January 23, 2019	NLG Axle (P/N 16122-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-32-0056, Revision C, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	80,000[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only
601R-32-32-0076, Revision B, dated January 23, 2019	MLG Side Stay Pin (P/N 17076-1)	80,000	80,000[1]	80,000	74,200[1]	[1] HAAO – Post-Modsum TC601R15827 aircraft only

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(i) Replacement of Repaired NLG and/or MLG Component

If the total flight cycles of the component is equal to or more than the applicable revised SDIR life limit specified in figure 1 to paragraph (h) of this AD minus 2,000 flight cycles: Within 12 months or 2,000 flight cycles, whichever occurs first, after completing the actions specified in paragraph (g) of this AD, replace the affected component with a serviceable component.

(j) Parts Installation Prohibition

As of the effective date of this AD, no person may install any component listed in Table 1 or Table 2 of Bombardier Service Bulletin 601R–32–112, dated November 11, 2019, on any airplane without first incorporating the actions specified in paragraph (h) or (i) of this AD, as applicable.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or MHI RJ Aviation ULC's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2020–09, dated April 7, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0691.

(2) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7330; fax 516–794–5531; email *9-avs-nyaco-cos@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 601R–32–112, dated November 11, 2019.

(ii) [Reserved]

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

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on December 28, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03565 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0674; Product Identifier 2020–NM–070–AD; Amendment 39–21382; AD 2021–01–06]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A330–200 and A330–300 series airplanes, and all Model A340–200 and A340–300 series airplanes. This AD was prompted by reports of hydraulic system failure due to fatigue failure of the screws attaching the manual valve to the ground service manifold (GSM). This AD requires, for certain GSMs, repetitive replacement of the hydraulic system GSM manual valve attachment screws having certain part numbers; and, for certain other GSMs with certain screws installed, replacement of those screws, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 30, 2021.

ADDRESSES: For EASA material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* For Airbus material incorporated by reference in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* internet *http://www.airbus.com.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0674.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0674; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0093, dated April 24, 2020 (EASA AD 2020–0093) (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A330–200 and A330–300 series airplanes, and all Model A340–200 and A340–300 series airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A330–200 and A330–300 series airplanes, and all Model A340–200 and A340–300 series airplanes. The NPRM published in the **Federal Register** on July 31, 2020 (85 FR 46012). The NPRM was prompted by reports of hydraulic system failure due to fatigue failure of the screws attaching the manual valve to the GSM. The NPRM proposed to require, for certain GSMs, repetitive replacement of the hydraulic system GSM manual valve attachment screws having certain part numbers; and, for certain other GSMs with certain screws installed, replacement of those screws, as specified in an EASA AD.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM

and the FAA's response to each comment.

Support for the NPRM

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

Request To Include Applicability Exception

Delta Air Lines (Delta) asked that the FAA include an exception statement in paragraph (c) of the proposed AD related to Airbus modification 58345. Delta stated that EASA AD 2020–0093 includes the statement ''except those on which Airbus modification (mod) 58345 has been embodied in production.'' Delta added that this would remove the need for operators of post mod 58345 airplanes to demonstrate compliance with an AD for which compliance is impossible.

The FAA does not agree with the commenter's request. Paragraph (c) of this AD identifies the affected airplane models and specifies that this AD is applicable to the airplanes identified in EASA AD 2020–0093. Because the applicability identified in EASA AD 2020–0093 excludes airplanes on which Airbus modification 58345 is embodied in production, it is not necessary to restate that exclusion in this AD. EASA AD 2020–0093 is incorporated by reference in its entirety, which includes the applicability therein. Therefore, the FAA has not changed this AD in this regard.

Request To Change AOT Reference

Delta asked that the ''in accordance with'' statement in paragraph (g) of the proposed AD be replaced by ''refer to'' Airbus Alert Operators Transmission (AOT) A29L010–19, Revision 01, dated February 18, 2020, paragraphs 4.4.2.1.(8), 4.4.2.1.(10), 4.4.2.2.(9) and 4.4.2.2.(11). Delta stated that the EASA AD mandates accomplishment of the referenced AOT, and the AOT includes the following note: ''NOTE 2: The accomplishment instructions of this AOT include procedures given in other documents or in other sections of the AOT. When the words 'refer to' are used and the operator has a procedure accepted by the local authority he belongs to, the accepted alternative procedure can be used. When the words 'in accordance with' are used then the given procedure must be followed.'' Delta added that paragraphs 4.4.2.1.(8) and 4.4.2.2.(9) of the AOT use both ''refer to'' and ''in accordance with,'' and paragraphs 4.4.2.1.(10) and 4.4.2.2.(11) of the AOT use ''in accordance with'' when referencing the Airplane Maintenance Manual (AMM) wirelocking procedures. Delta further noted that in all cases, the AOT refers to standard AMM procedures, testing and wirelocking. As standard procedures, Delta recommended that the ''in accordance with'' statement be replaced by ''refer to'' for paragraphs 4.4.2.1.(8), 4.4.2.1.(10), 4.4.2.2.(9) and 4.4.2.2.(11) of the AOT.

The FAA agrees with the commenter's request for further clarification. It should be clear to operators whether specific procedures are mandatory. Paragraph (h)(3) of the proposed AD specified compliance with ''paragraph 4.4.2., Accomplishment Instructions, of the AOT'' only. This means that these actions must be completed in accordance with certain procedures specified in the Airbus AMM tasks defined in Airbus AOT A29L010–19, Revision 01, dated February 18, 2020. The FAA has clarified paragraph (h)(3) of this AD as follows: ''Where EASA AD 2020–0093 specifies to comply with ''the instructions of the AOT,'' and ''the AOT'' specifies that ''the accomplishment instructions marked as Required for Compliance (RC) must be done'' this AD requires compliance with ''paragraph 4.4.2., Accomplishment Instructions, of the AOT [Airbus Alert Operators Transmission A29L010–19, Revision 01, dated February 18, 2020] only; except paragraphs 4.4.2.1(1) and 4.4.2.2(1) which specify gaining access to the ground service manifold and preparation for update and may be accomplished in accordance with the operator's maintenance or inspection program.''

Conclusion

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

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

The FAA also determined that this change will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0093 describes procedures for replacement of the hydraulic system GSM manual valve attachment screws. For GSMs with part number (P/N) 70902–3 or P/N 70902–4 installed with screws having P/N NAS1101–3H8, EASA AD 2020–0093 describes procedures for repetitive replacement of those screws with new screws having P/N NAS1101–3H8. For GSMs with P/N 70902–5 installed with screws having P/N NAS1101–3H8, EASA AD 2020–0093 describes procedures for replacement of those screws with new bolts having P/N EWB0420D–3H–3 or four new screws having P/N NAS1101–3H8; if new screws are installed, EASA AD 2020–0093 describes procedures for replacing them with new bolts having P/N EWB0420D–3H–3 before the screws exceed 10,000 flight cycles since installation on an airplane. EASA AD 2020–0093 also describes an optional terminating modification (replacement of all affected GSMs), which would terminate the repetitive replacements of the attachment screws.

Airbus AOT A29L010–19, Revision 01, dated February 18, 2020, describes procedures for initial and repetitive replacement of certain GSM manual-valve screws and a one-time visual inspection to determine if certain GSM manual-valve screws are installed instead of the correct bolts.

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

Costs of Compliance

The FAA estimates that this AD affects 107 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
7 work-hours × $85 per hour = $595 per cycle	* $0	$595 per cycle	$63,665 per cycle.

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

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
10 work-hours × $85 per hour = $850	* $0	$850

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–01–06 Airbus SAS: Amendment 39–21382; Docket No. FAA–2020–0674; Product Identifier 2020–NM–070–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS airplanes specified in paragraphs (c)(1) through (4) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0093, dated April 24, 2020 (EASA AD 2020–0093).

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

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

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

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

(d) Subject

Air Transport Association (ATA) of America Code 29, Hydraulic power.

(e) Reason

This AD was prompted by reports of hydraulic system failure due to fatigue failure of the screws attaching the manual valve to the ground service manifold (GSM). The FAA is issuing this AD to address the failure of hydraulic system manual valve attachment screws. This condition, if not addressed, could lead to the loss of one or more hydraulic systems and damage to surrounding structure and components, possibly resulting in reduced control of the airplane, or injury to maintenance staff working in the main landing gear bay.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0093.

(h) Exceptions to EASA AD 2020–0093

(1) Where EASA AD 2020–0093 refers to its effective date or to ''the effective date of EASA AD 2019–0314,'' this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0093 does not apply to this AD.

(3) Where EASA AD 2020–0093 specifies to comply with ''the instructions of the AOT [Alert Operators Transmission],'' and ''the AOT'' specifies that ''the accomplishment instructions marked as Required for Compliance (RC) must be done,'' this AD requires compliance with ''paragraph 4.4.2., Accomplishment Instructions, of the AOT [Airbus Alert Operators Transmission A29L010–19, Revision 01, dated February 18, 2020]'' only; except paragraphs 4.4.2.1(1) and 4.4.2.2(1), which specify gaining access to the ground service manifold and preparation for update, may be accomplished in accordance with the operator's maintenance or inspection program.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0093 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2020–0093 that contains RC procedures and tests: Except as required by paragraphs (h)(3) and (j)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0093, dated April 24, 2020.

(ii) Airbus Alert Operators Transmission A29L010–19, Revision 01, dated February 18, 2020.

(3) For EASA AD 2020–0093, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* internet *http://www.airbus.com.*

(5) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0674.

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

Issued on December 30, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03566 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0830; Project Identifier 2020–CE–002–AD; Amendment 39–21428; AD 2021–04–07]

RIN 2120–AA64

Airworthiness Directives; Piper Aircraft, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Piper Aircraft, Inc., (Piper) Models PA–46–350P (Malibu Mirage), PA–46R–350T (Malibu Matrix), and PA–46–500TP (Malibu Meridian) airplanes. This AD was prompted by a finding of several airplanes with wing assemblies that did not have the proper stall warning heater modification design. Without the proper stall warning heat control modification kit installed, during flights into icing conditions with the landing gear down, ice can form on the stall vane, which may result in failure of the stall warning system. This AD requires identifying and correcting nonconforming stall warning heat control systems. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Piper Aircraft Inc., 2926 Piper Drive, Vero Beach, FL 32960; phone: 772–299–2686; email: *customerservice@piper.com;* website: *https://www.piper.com/.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0830.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0830; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: John Lee, Aviation Safety Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (404) 474–5568; email: *john.lee@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Piper Models PA–46–350P (Malibu Mirage), PA–46R–350T (Malibu Matrix), and PA–46–500TP (Malibu Meridian) airplanes. The NPRM published in the **Federal Register** on October 28, 2020 (85 FR 68255). The NPRM was prompted by the finding of

airplanes without the proper stall warning heater modification design change. In the NPRM, the FAA proposed to require identifying and correcting nonconforming stall warning heat control systems.

The FAA issued AD 2008–26–11, Amendment 39–15777 (73 FR 78934, December 24, 2008) (''AD 2008–26–11'') for certain serial-numbered Piper Model PA–46–350P, PA–46R–350T, and PA–46–500TP airplanes. AD 2008–26–11 requires installing stall warning heat control modification kit part number 88452–002. For those serial-numbered airplanes to which AD 2008–26–11 does not apply, Piper incorporated the modification kit in production.

Since the FAA issued AD 2008–26–11, Piper found 11 airplanes (9 domestic) with the left wing replaced with a wing assembly from salvage that did not have the proper stall warning heater modification design change. Without the proper stall warning heat control modification kit during flights into icing conditions with the landing gear down, ice can form on the stall vane, which may result in failure of the stall warning system. The FAA is issuing this AD to address the unsafe condition on these products.

This action will not affect AD 2008–26–11 and all actions of that AD will remain in place.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from 1 commenter. The commenter supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting the AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Piper Service Letter No. 1261, dated July 19, 2019. This service information specifies procedures to identify and correct nonconforming stall warning heat control systems. The intent of these service letters is to ensure that wiring for the stall warning heat control system meets current type design. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Other Related Service Information

The FAA reviewed Piper Mandatory Service Bulletin No. 1192, dated September 15, 2008. This service bulletin is incorporated by reference in AD 2008–26–11.

Differences Between This AD and the Service Information

This AD does not require the first step, which is identified as a ''required for compliance'' (RC) step, of Piper Service Letter No. 1261, dated July 19, 2019. The first step specifies reviewing the aircraft records to determine whether the inspection of the stall warning heat control configuration must be done. This AD does not require a records review. Instead, all airplanes identified in the applicability of this AD have to inspect the stall warning heat control configuration.

Costs of Compliance

The FAA estimates that this AD will affect 1,261 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect stall warning heat control system	1 work-hour × $85 per hour = $85	$0	$85	$107,185

The FAA estimates the following costs to do any necessary repairs that will be required based on the results of the inspection. The FAA has no way of determining the number of airplanes that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Install modification kit	1.5 work-hours × $85 per hour = $127.50	$230.00	$357.50

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–04–07 Piper Aircraft, Inc.: Amendment 39–21428; Docket No. FAA–2020–0830; Project Identifier 2020–CE–002–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

(c) This AD applies to the following Piper Aircraft, Inc., airplanes, certificated in any category:

(1) Model PA–46–350P (Malibu Mirage) airplanes, serial numbers (S/Ns) 4622041, 4636041, 4636142, 4636143, 4636313, 4636341, and 4636379;

(2) Model PA–46–500TP (Malibu Meridian) airplanes, S/Ns 4697141, 4697161, 4697086, and 4697020; and

(3) Models PA–46–350P (Malibu Mirage), PA–46R–350T (Malibu Matrix), and PA–46–500TP (Malibu Meridian) airplanes, all serial numbers, if the left wing has been replaced with a serviceable (more than zero hours time-in-service) wing.

(d) Subject

Joint Aircraft System Component (JASC) 3700, VACUUM SYSTEM.

(e) Unsafe Condition

This AD was prompted by nonconforming stall warning heat control systems, utilizing a left wing assembly without the proper stall warning modification design. Without the proper stall warning heat control modification kit during flights into icing conditions with the landing gear down, ice can form on the stall vane, which may result in failure of the stall warning system. The FAA is issuing this AD to identify and correct nonconforming stall warning heat control systems. The unsafe condition, if not addressed, could result in the pilot being unaware of an approaching stall situation.

(f) Compliance

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

(g) Actions

(1) Within 100 hours time-in-service (TIS) after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs first, inspect the configuration of stall warning heat control system and, if required, install stall warning heat control modification kit part number (P/N) 8452–002 before further flight in accordance with steps 2 and 3 of the Instructions in Piper Aircraft, Inc., Service Letter No. 1261, dated July 19, 2019.

(2) As of the effective date of this AD, do not install a wing on any Model PA–46–350P (Malibu Mirage), PA–46R–350T (Malibu Matrix), or PA–46–500TP (Malibu Meridian) airplane unless you have determined that the wing has the correct stall warning heat control system as required by paragraph (g)(1) of this AD.

(h) Special Flight Permit

A special flight permit may be issued to operate the airplane to a location where the requirements of this AD can be accomplished provided flight into known icing conditions is prohibited.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD.

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by a Piper Aircraft, Inc. Organization Designation Authorization (ODA) that has been authorized by the Manager, Atlanta ACO Branch to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

For more information about this AD, contact John Lee, Aviation Safety Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (404) 474–5568; email: *john.lee@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) Piper Service Letter No. 1261, dated July 19, 2019.

(ii) [Reserved]

(3) For Piper Aircraft, Inc. service information identified in this AD, contact Piper Aircraft Inc., 2926 Piper Drive, Vero Beach, FL 32960; phone: 772–299–2686; email: *customerservice@piper.com;* website: *https://www.piper.com/.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148.

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

Issued on February 4, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03499 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0969; Project Identifier MCAI–2020–00853–T; Amendment 39–21393; AD 2021–02–10]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This AD was prompted by a report that certain retaining rings could cause damage to frame forks, brackets and edge frames, and their surface protection; subsequent investigation showed that the depth of the frame fork spotfacing on structural parts is inadequate to accommodate the retaining ring. This AD requires repetitive inspections of certain areas of each cargo door for damage and corrective action. This AD also provides an optional terminating modification, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0969.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0969; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0144, dated June 29, 2020 (EASA AD 2020–0144) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on October 26, 2020 (85 FR 67696). The NPRM was prompted by a report that certain retaining rings could cause damage to frame forks, brackets and edge frames, and their surface protection; subsequent investigation showed that the depth of the frame fork spotfacing on structural parts is inadequate to accommodate the retaining ring. The NPRM proposed to require repetitive inspections of certain areas of each cargo door for damage and corrective action. The NPRM also proposed to provide an optional terminating modification, as specified in an EASA AD.

The FAA is issuing this AD to address inadequate frame fork spotfacing depth for the retaining rings, which could reduce the structural integrity of the airplane. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0144 describes procedures for repetitive inspections of the edge frames, brackets, frame forks, and the access cover on the internal side of each cargo door for damage (including cracks and corrosion) and corrective actions. Corrective actions include repair or rework. EASA AD 2020–0144 also describes procedures for an optional modification of each affected cargo door, which terminates the repetitive inspections. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
24 work-hours × $85 per hour = $2,040	$0	$2,040	$26,520

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Labor cost	Parts cost	Cost per product
9 work-hours × $85 per hour = $765	Up to $8,570	Up to $9,335.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–10 Airbus SAS: Amendment 39–21393; Docket No. FAA–2020–0969; Project Identifier MCAI–2020–00853–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

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

(e) Reason

This AD was prompted by a report that certain retaining rings could cause damage to frame forks, brackets and edge frames, and their surface protection; subsequent investigation showed that the depth of the frame fork spotfacing on structural parts is inadequate to accommodate the retaining ring. The FAA is issuing this AD to address inadequate frame fork spotfacing depth for the retaining rings, which could reduce the structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0144, dated June 29, 2020 (EASA AD 2020–0144).

(h) Exceptions to EASA AD 2020–0144

(1) Where EASA AD 2020–0144 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0144 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(j) Related Information

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

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0144, dated June 29, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0144, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found

in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0969.

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

Issued on January 12, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03568 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0818; Project Identifier MCAI–2020–00987–A; Amendment 39–21381; AD 2021–01–05]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Model PC–24 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as electrical harness installations on PC–24 airplanes that are not in compliance with the approved design. This unsafe condition could lead to wire chafing and potential arcing or failure of wires having the incorrect length, possibly resulting in loss of system redundancy, or generation of smoke and smell, or loss of power plant fire protection function. This AD requires modifying the electrical harness installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Pilatus Aircraft Ltd., CH–6371, Stans, Switzerland; phone: +41 848 24 7 365; email: *techsupport.ch@pilatus-aircraft.com;* website: *http://www.pilatus-aircraft.com/.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call 816–329–4148. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0818.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0818; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aviation Safety Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain serial-numbered Pilatus Model PC–24 airplanes. The NPRM published in the **Federal Register** on September 17, 2020 (85 FR 58002). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA has issued EASA AD No. 2020–0158, dated July 16, 2020 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> During production, electrical harness installations on some PC–24 aeroplanes were found not to comply with the approved design.
>
> This condition, if not corrected, could lead to wire chafing and potential arcing, or to failure of wires having the incorrect length, possibly resulting in loss of system redundancy, or generation of smoke and smell, or loss of power plant fire protection function.
>
> To address this potential unsafe condition, Pilatus issued the [service bulletin] SB, providing instructions to improve the electrical harness installations in the nose bay, cockpit, fuselage, wing fairing and rear fuselage areas.
>
> For the reason described above, this [EASA] AD requires modification of the electrical harness installations.

The incorrect length wires are too short in length and do not have appropriate slack, which could lead to wires being pulled loose from the terminals during flight or ground operation. Generation of smell refers to the smell from electrical arcing. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0818.

In the NPRM, the FAA proposed to require modifying the electrical harness installation. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pilatus PC–24 Service Bulletin No. 91–001, dated April 7, 2020. The service information specifies procedures necessary to improve the electrical harness installation in the nose bay, cockpit, avionics rack, fuselage, wing fairing, and rear fuselage. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD will affect 36 products of U.S. registry. The FAA also estimates that it will take 20

work-hours per product to comply with the requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $75 per product.

Based on these figures, the FAA estimates the cost of this AD on U.S. operators at $63,900, or $1,775 per product.

The FAA has included all costs in this cost estimate. According to the manufacturer, however, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–01–05 Pilatus Aircraft Ltd.: Amendment 39–21381; Docket No. FAA–2020–0818; Project Identifier MCAI–2020–00987–A.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Model PC–24 airplanes, serial numbers 101 through 160 inclusive, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2497, ELECTRICAL POWER SYSTEM WIRING; 3197, INSTRUMENT SYSTEM WIRING.

(e) Unsafe Condition

This AD was prompted by electrical harness installations on some PC–24 airplanes in production that did not comply with the approved design. The FAA is issuing this AD to prevent wire chafing and potential arcing or failure of wires having the incorrect length. The unsafe condition, if not addressed, could result in loss of system redundancy, electrical arcing, or loss of power plant fire protection.

(f) Actions and Compliance

Unless already accomplished, during the next annual inspection after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs later, modify the electrical harness installation in accordance with sections 3.A. through 3.H. of the Accomplishment Instructions in Pilatus PC–24 Service Bulletin No. 91–001, dated April 7, 2020.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

(2) Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(h) Related Information

(1) Refer to European Union Aviation Safety Agency (EASA) AD No. 2020–0158, dated July 16, 2020, for more information. You may examine the EASA AD at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0818.

(i) Material Incorporated by Reference

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

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

(i) Pilatus PC–24 Service Bulletin No. 91–001, dated April 7, 2020.

(ii) [Reserved]

(3) For Pilatus Aircraft Ltd service information identified in this AD, contact Pilatus Aircraft Ltd., CH–6371, Stans, Switzerland; phone: +41 848 24 7 365; email: *techsupport.ch@pilatus-aircraft.com;* website: *http://www.pilatus-aircraft.com/.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued on December 30, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03511 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0705; Product Identifier 2019–NM–098–AD; Amendment 39–21396; AD 2021–02–13]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD was prompted by reports of cracks in the bear strap from station (STA) 290 to STA 296, and between stringers S–8R and S–9R, sometimes common to fasteners in the gap cover and emanating from rough sanding marks found on the surface of the bear strap. This AD requires inspections of the fuselage skin and bear strap at the forward galley door between certain stations for cracks, and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0705.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0705; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Michael Bumbaugh, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3522; email: *michael.bumbaugh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. The NPRM published in the **Federal Register** on October 1, 2019 (84 FR 52047). The NPRM was prompted by reports of cracks in the bear strap between certain stations, sometimes common to fasteners in the gap cover and emanating from rough sanding marks found on the surface of the bear strap. The NPRM proposed to require inspections of the fuselage skin and bear strap at the forward galley door between certain stations for cracks, and applicable on-condition actions.

The FAA issued a supplemental NPRM (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. The SNPRM published in the **Federal Register** on May 1, 2020 (85 FR 25348). The FAA issued the SNPRM to revise certain inspections to provide the correct thickness callouts for the fuselage skin and bear strap.

The FAA is issuing this AD to address cracking of the bear strap, which could result in severing of the bear strap, possibly leading to uncontrolled decompression and loss of structural integrity of the airplane.

Comments

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

Support for the SNPRM

United Airlines stated that it has no technical objection to the SNPRM and that it concurs with the proposed rulemaking.

Request for an Alternative Method of Compliance for a Certain Repair

Southwest Airlines (SWA) requested that the Boeing 737–700/-800 Structural Repair Manual (SRM) 53–10–01, Repair 6, be approved as an alternative method of compliance (AMOC) to certain corrective actions specified in Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020. SWA contended that this repair covers the affected inspection zone, and that this SRM repair should be a terminating action to the inspections specified in Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, because the entire inspection area covered is common to the repair given in Boeing 737–700/-800 SRM 53–10–01, Repair 6. SWA asserted that operators should be able to accomplish this SRM repair without contacting Boeing, provided there are no deviations and that the findings meet the criteria listed in the Boeing 737–700/-800 SRM 53–10–01, Repair 6. SWA also noted that the SRM was published after Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, so there was no way to reference the SRM repair within it.

The FAA disagrees with the request because the referenced SRM repair has not yet been approved for the specified conditions. However, under the provisions of paragraph (j) of this AD, the FAA will consider requests for approval of an AMOC if a proposal is submitted that is supported by technical data indicating that the proposed repair will provide an acceptable level of safety. If the referenced SRM repair is determined to be acceptable to address the specified conditions, the FAA may approve, and Boeing may issue, a global AMOC for the SRM repair. The FAA has not changed this AD as a result of this comment.

Request for an Altered Compliance Time for Condition 1, Action 1, of the Service Information

Southwest Airlines requested that where table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, states a compliance time of ''Before further flight'' for certain on-condition actions, the proposed AD should specify this compliance time as ''Before 15,000 total flight cycles or within 6,000 flight cycles after the original issue of the AD, whichever occurs later.'' Southwest Airlines also requested that the FAA clarify the requirement of Condition 1, Action 1, and Condition 3 and Condition 4.1.1, within Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, paragraph 1.E., ''Compliance,'' in Tables 1 and 2, to do the alternative inspections and applicable on-condition action(s) before further flight. SWA asserted that there is an equivalent level of safety between an airplane without a repair reaching the compliance time threshold to perform the Boeing service bulletin inspection and an airplane with a repair reaching the compliance time threshold before an action is required. Therefore, the compliance times for obtaining the alternative inspection(s) for the existing repairs should align with the compliance times allowed for

the initial service bulletin general visual inspection in lieu of ''before further flight.'' SWA proposed that this allowance be listed within paragraph (h) of the proposed AD, similar to the allowance provided by paragraph (i) of the proposed AD.

The FAA agrees that allowing the AD compliance time for an airplane with an existing repair to be the same as an aircraft without an existing repair will provide an acceptable level of safety. Any alternative inspection program including compliance times must be done in accordance with an approved AMOC. The FAA has added paragraph (h)(3) of this AD to address this change.

Request To Clarify Authority for Approval of Alternative Inspection Programs

Southwest Airlines requested that the FAA clarify who has the authority to approve an alternative inspection program for any repair found during Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, paragraph 1.E, ''Compliance,'' Table 1, Condition 1, Action 1. Paragraph (j)(1) of the proposed AD clearly indicated that the manager of the Seattle ACO Branch has that authority; paragraph (j)(3) of the proposed AD provided the path to obtain an AMOC by The Boeing Company Organization Designation Authorization (ODA) as delegated only for a repair, modification, and alteration. SWA requested clarification whether paragraph (j)(3) of the proposed AD encompasses both existing repairs and repairs installed as a result of inspection findings. SWA asserted that it is unclear whether the reference to the repair is for an existing repair that is located in the inspection area or for a repair that is installed as a result of any crack finding.

The FAA agrees to clarify. The Boeing Company ODA has authority to approve AMOCs as authorized and delegated for repairs installed prior to the AD and repairs due to a crack finding, as well as repairs not due to a crack finding. An operator would need to provide The Boeing Company ODA with all details and geometry needed to design and analyze the repair data.

Request To Clarify the Use of ''Covers'' in the Service Information

SWA commented that Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, paragraph 1.E., ''Compliance,'' Table 1, note (b), omits the inspection in areas where a repair covers the affected zone, provided conditions 1 and 2 are met. A similar note is included in paragraph 1.E., ''Compliance,'' Table 2, note (c). SWA would like clarification of the word ''covers'' as it relates to repairs in the area. Since the configuration has changed because of the repair, SWA stated that the repair's damage tolerance program provides an equivalent level of safety for this area.

The FAA has coordinated with Boeing to clarify the intent of the wording in this section. Note (b) in Table 1 and note (c) in Table 2 of Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, paragraph 1.E., ''Compliance,'' apply to the area ''covered by'' a repair, but not for the area ''common to'' a repair. A repair that is ''common to'' the area, meaning physically in the same area as the NPRM-proposed repair, but that was not meant to address the issue specified in the NPRM (*i.e.,* ''covered'' areas), could potentially be obscuring the inspections that would detect crack growth which this AD is meant to mitigate. Therefore, if a repair was not done as a corrective action for a crack in the bear strap, and the operator does not perform the inspections specified in the Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, it may result in the unsafe condition. The FAA has not changed this AD as a result of this comment.

Request To Include Inspection Programs

SWA commented that paragraph (j)(3) of the proposed AD (in the SNPRM) stated that an AMOC may be used for any required repair, modification, or alteration if approved by The Boeing Company ODA. SWA stated that inspection programs should be included in this list of conditions for which The Boeing Company ODA can provide an AMOC, as paragraph (h)(2) explicitly states it is acceptable to accomplish alternative inspections approved in accordance with the procedures specified in paragraph (j) of the proposed AD.

The FAA agrees with the assertion that the inspection program may be part of the AMOC because the inspection program for the repaired area may be part of the repair, which in turn is part of the AMOC. However, the FAA disagrees with changing this AD because an AMOC issued for a repair will include the inspection program. The request to add certain inspection programs to The Boeing Company ODA-authorized list of AMOC approvals is outside the scope of this rulemaking. Therefore, the FAA has not changed this AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020. This service information describes procedures for inspecting for cracks of the fuselage skin and bear strap at the forward galley door between certain stations, through the use of two alternative inspection methods for the initial inspections: (1) Internal and external general visual inspections and internal surface high frequency eddy current (HFEC) inspections, and (2) external general visual and external eddy current inspections. This service information also describes procedures for applicable on-condition actions including inspections for cracks, HFEC inspections for cracks, low frequency eddy current (LFEC) inspections for cracks, and repair, depending on the inspection method selected. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 752 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS: OPTION 1

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Internal general visual inspection	11 work-hours × $85 per hour = $935	$0	$935	$703,120.
External general visual inspection	1 work-hour × $85 per hour = $85	0	85	63,920.
Internal Surface HFEC inspections	3 work-hours × $85 per hour = $255 per inspection cycle.	0	255 per inspection cycle.	191,760 per inspection cycle.

ESTIMATED COSTS FOR REQUIRED ACTIONS: OPTION 2

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
External general visual inspection	1 work-hour × $85 per hour = $85	$0	$85	$63,920.
External LFEC and HFEC inspections	18 work-hours × $85 per hour = $1,530 per inspection cycle.	0	1,530 per inspection cycle.	1,150,560 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–13 The Boeing Company: Amendment 39–21396; Docket No. FAA–2019–0705; Product Identifier 2019–NM–098–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracks in the bear strap from station (STA) 290 to STA 296, and between stringers S–8R and S–9R, sometimes common to fasteners in the gap cover and emanating from rough sanding marks found on the surface of the bear strap. The FAA is issuing this AD to address cracking of the bear strap, which could result in severing of the bear strap, possibly leading to uncontrolled decompression and loss of structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–53A1383, Revision 1, dated February 19, 2020, which is referred to in Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, uses the phrase ''the original issue date of Requirements Bulletin 737–53A1383 RB,'' this AD requires using ''the effective date of this AD,'' except where Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19,

2020, uses the phrase ''the original issue date of Requirements Bulletin 737–53A1383 RB'' in a note or flag note.

(2) Where Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, specifies contacting Boeing for repair instructions or for alternative inspections: This AD requires doing the repair, or doing the alternative inspections and applicable on-condition actions, using a method and compliance time approved in accordance with the procedures specified in paragraph (j) of this AD.

(3) Where Boeing Alert Requirements Bulletin 737–53A13833 RB, Revision 1, dated February 19, 2020, in Tables 1 and 2, Condition 1 (Action 1), Condition 3, and Condition 4.1.1 (Action 1), specifies a compliance time of ''before further flight'': This AD requires compliance before 15,000 total flight cycles or within 6,000 flight cycles after the effective date of this AD, whichever occurs later.

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD, using Boeing Alert Requirements Bulletin 737–53A1383 RB, dated May 9, 2019, except for airplanes on which Option 2, Condition 4, has been done. For airplanes on which Option 2, Condition 4, has been done, credit is given for Boeing Alert Requirements Bulletin 737–53A1383 RB, dated May 9, 2019, provided operators do the external low frequency eddy current (LFEC) inspection of the forward galley door bear strap and external high frequency eddy current (HFEC) inspection of the fuselage skin for any crack in accordance with Figure 4 of the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020. The compliance time for accomplishing these actions is at the later of the times specified in paragraphs (i)(1) and (2) of this AD. Except as specified in paragraph (h)(3), do all applicable on-condition actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020, at the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020.

(1) Before 15,000 total flight cycles.

(2) Within 6,000 flight cycles after the effective date of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Michael Bumbaugh, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3522; email: *michael.bumbaugh@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (4) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 737–53A1383 RB, Revision 1, dated February 19, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on January 14, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–03572 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0331; Product Identifier 2020–NM–019–AD; Amendment 39–21397; AD 2021–02–14]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This AD was prompted by a report that the necessary sealant was not applied to the side of body (SOB) slot as a result of a production drawing that provided unclear SOB slot sealant application instructions. This AD requires a general visual inspection for insufficient sealant in the SOB slot, and related investigative and corrective actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0331.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0331; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other

information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

James Laubaugh, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3622; email: *james.laubaugh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The NPRM published in the **Federal Register** on May 6, 2020 (85 FR 26893). The NPRM was prompted by a report indicating that the necessary sealant was not applied to the SOB slot as a result of a production drawing providing unclear SOB slot sealant application instructions on certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The NPRM proposed to require a general visual inspection for insufficient sealant in the SOB slot, and related investigative and corrective actions.

The FAA is issuing this AD to address fuel leaking into the air distribution mix bay (ADMB), which if not addressed, could possibly lead to an ignition of flammable fluid vapors, fire, or explosion, or fuel vapor inhalation by passengers and crew.

Comments

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

Supportive Comment

United Airlines stated it had no technical objection to the NPRM.

Effects of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of blended or split scimitar winglets per Supplemental Type Certificate (STC) ST00830SE does not affect compliance with the proposed actions.

The FAA agrees with the commenter that STC ST00830SE does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. The FAA has not changed this AD in this regard.

Request To Reference Later Revision of Multi Operator Message (MOM)

Boeing requested that the FAA revise the proposed AD to reference a later revision of the MOM, specifically, Boeing Multi Operator Message MOM–MOM–20–0049–01B(R2), with an anticipated publication date of July 31, 2020. Boeing stated that the revision has improved illustration and work instructions, clarifies how to distinguish between certain application flaws and more severe flaws and deterioration, and provides relief from certain corrective actions for certain secondary fuel barrier coating conditions.

The FAA agrees to reference a later revision of the service information. However, Boeing has released additional later revisions that provide additional clarity. Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020, provides clarification on the definitions of sufficient sealant in the SOB slot, fillet seal in the SOB slot, and secondary fuel barrier. It also provides clarifications to the inspection area, and revisions were made to improve the identification of applicable figures. The changes in the revision provide relief on repairs of serviceable secondary fuel barrier coating. This later revision 4 contains no substantive change from MOM–MOM–20–0049–01B(R1), dated January 29, 2020. The FAA has revised paragraphs (g) and (i) of this AD to reference Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020. The FAA has also added paragraph (j) to this AD to provide credit for accomplishing certain earlier revisions of this service information before the effective date of this AD.

Request To Define Type of Inspection Required

Delta Air Lines (Delta) requested clarification on what type of inspection is needed to accomplish the inspection requirements. Delta noted that in the General Notes section of the attachment to Boeing Multi Operator Message MOM–MOM–20–0049–01B(R2), dated August 4, 2020, the MOM provides a definition of a detailed inspection. However, Delta noted that because ''detailed inspection'' is not used in other parts of the service information, it seems the definition of a detailed visual inspection should have been provided instead. Delta stated that this inconsistency could lead to an inability to comply with the instructions in the MOM.

The FAA agrees to clarify. As stated previously, the FAA has revised this AD to reference Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020, and in this later revision, both the steps and General Notes refer to ''detailed inspection'' as well as ''general visual inspection.'' The FAA has removed paragraph (g) of the proposed AD as this definition is no longer needed. The FAA has redesignated subsequent paragraphs accordingly.

Request To Clarify Figures

Alaska Airlines (Alaska) and Delta requested that the figures within Boeing Multi Operator Message MOM–MOM–20–0049–01B(R1), dated January 29, 2020, be revised to add clarity. Alaska and Delta stated that the figures lack clear reference links from the text to the figures. Delta also stated that not addressing the unclear figures could lead to incorrect accomplishment of the SOB slot inspection.

The FAA agrees that the figures are unclear and the internal reference links need to be revised. As stated previously, this AD has been revised to reference Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020, which contains improved figure references. No further changes to this AD have been made.

Request To Clarify Inspection Area and Acceptance Criteria for Sealant

Alaska, Delta, and Southwest Airlines requested clarification on what is considered to be acceptable or insufficient sealant in the SOB slot. Alaska and Delta requested that the inspection area and acceptance criteria for sealant in the SOB slot and secondary fuel barrier be clarified. Southwest Airlines proposed a compliance table be added to the proposed AD to define acceptable sealant conditions, and Alaska supported Southwest Airlines' idea. Delta also suggested that the unclear criteria for sealant could lead to incorrect accomplishment of the SOB slot inspection.

The FAA agrees that the criteria for acceptable sealant are unclear. As described above, the FAA has revised this AD to refer to Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020, which clarifies the area of inspection and the acceptable conditions of the sealant.

Request To Clarify an Inspection Area

Delta requested clarification on the inspection area addressed in certain portions (Part 2, Step 3 and View 2D21's flagnote 63) of Boeing Multi Operator Message MOM–MOM–20–0049–01B(R1), dated January 29, 2020. Delta stated that those parts could be interpreted to specify that the entire front spar of the center tank must be inspected for the fillet seal and SOB slot, or only the SOB slot area.

The FAA agrees that the specifications of the area to be inspected should be clearer. As discussed above, the FAA has revised this AD to reference Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020, which clarifies that only the SOB slot area must be inspected as shown in Figure 1 of Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020. No additional changes to this AD have been made.

Request To Add Service-Based Compliance Time

Southwest Airlines requested that a service-based compliance time be added to the calendar-based compliance time proposed in the NPRM. Southwest Airlines proposed that the compliance time be re-written to require compliance within ''9 months or 2,000 flight cycles from AD effective date, whichever occurs later.'' Southwest Airlines pointed out that due to the reduced flight schedules in response to the COVID–19 pandemic, many airplanes are in long-term storage. Southwest Airlines added that some of these long-term storage facilities might not be capable of providing heavy maintenance, and airplanes would need to be ferried to a facility where these actions may be accomplished.

The FAA disagrees with adding the 2,000 flight cycles to the compliance time. In developing an appropriate compliance time, the FAA considered the safety implications, parts availability, and normal maintenance schedules. In consideration of all of these factors, the FAA determined that the compliance time, as proposed, represents an appropriate interval for the general visual inspection for insufficient sealant in the SOB slot within the fleet, while still maintaining an adequate level of safety. However, under the provisions of paragraph (k) of this AD, the FAA will consider requests for approval of an extension of the compliance time if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Request To Extend Compliance Time

Alaska requested that an additional compliance time deferral of 24 months be allowed under the following conditions: No fuel contamination in the ADMB; no external leak or signs of a previous external leak around the SOB slot; insufficient sealing conditions temporarily corrected with PR–1826 B–1/4 sealant or SF5387 secondary fuel barrier materials, in accordance with certain service information instructions; and repetitive inspections for fuel contamination of the ADMB done at intervals not to exceed 12 months until the repair specified in paragraph (g) of this AD is completed. Alaska stated that the extended compliance time would relieve some of the operational impact and would aid in planning for the time-intensive repair during a heavy maintenance visit.

The FAA does not agree to provide a 24-month compliance time for the repair. The technical specifications provided for the proposed alternative sealant for temporary repair do not provide the FAA with enough information to determine that the temporary repair would comply with the certification basis of the airplane and provide an acceptable level of safety when incorporated into the existing fuel system design. There is also insufficient information on how the procedures for use in the temporary repair would differ from the permanent repair. However, under the provisions of paragraph (k) of this AD, the FAA will consider requests for approval of an extension of the repair compliance time if sufficient data are submitted to substantiate that the conditions and temporary repair would provide an acceptable level of safety. The FAA has not changed this AD in this regard.

Request To Allow Removing Certain Other Parts To Gain Inspection Access

American Airlines and Delta requested a revision to the proposed AD to allow removing the air return grilles or sidewall panels to expose a hole in a beam above the SOB slot area so the inspection of the sealant can be done through the opening. Both commenters stated that the access procedure specified in Boeing Multi Operator Message MOM–MOM–20–0049–01B(R1), dated January 29, 2020, removes seats and cabin floor panels to gain access to the inspection area. American Airlines also stated that allowing the alternative access procedure for the inspection would reduce the amount of time necessary to accomplish an inspection of the SOB slot, and that accomplishing any required corrective action would then require the removal of seats and cabin floor panels to gain access to the SOB slot area.

The FAA agrees that the inspection could be accomplished by removing the air return grilles or sidewall panels. As discussed previously, the FAA has revised this AD to reference Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020, which does contain this additional method of compliance for accessing the inspection area. The FAA has not made any additional revisions to this AD in this regard.

Request To Allow Use of Alternative Sealant

Alaska stated that the sealant AC–360 B1/2, which is specified as the sealant to use to fill a void, is discontinued. The FAA infers that Alaska wants the AD to be revised to remove reference to the discontinued sealant.

The FAA agrees that the sealant AC–360 B1/2 has been discontinued. As discussed above, this AD has been revised to reference Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020, which removes the reference to the sealant AC–360 B1/2, but retains the reference to sealant BMS 5–142, which is the appropriate sealant to use. The FAA has not made any further changes to this AD in this regard.

Request To Use Faster-Curing Sealants

Alaska requested that the FAA allow alternative sealants that cure faster than the ones specified in the service information. Alaska suggested allowing the use of sealant PR–1826 B1/4 in place of BMS 5–142, and SF5387 in place of BMS 5–81. Alaska also provided technical data sheets for the proposed sealants. Alaska noted that use of the slower-curing sealants could result in an airplane being out of service for up to 34 hours, and that time could be reduced by use of faster-curing sealants that provide an equivalent level of safety.

The FAA agrees that the alternative sealants would provide a faster cure time. However, the FAA does not have enough data to determine if the alternative sealants comply with the certification basis of the airplane and if they will provide an acceptable level of safety when incorporated into the existing fuel system design. The FAA will consider requests for alternative sealants as an alternative method of compliance if requested using the procedure specified in paragraph (k) of

this AD. The FAA has not changed the AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020. This service information describes procedures for a general visual inspection for insufficient sealant in the SOB slot. The service information also describes procedures for related investigative actions including a general visual inspection of the ADMB for fuel contamination, a check for external leaks of the center fuel tank external surfaces inside the pressure boundary, and an internal leak check of the center fuel tank to identify the leakage path(s). The service information also describes procedures for corrective actions including removal of all insulation blankets below the crease beam (left side to right side), clean-up of all fuel contamination, repair of any leak, preparation of the SOB slot for sealing, application of sealant, and repair of the secondary fuel barrier. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 731 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection for sealant	30 work-hours × $85 per hour = $2,550	$0	$2,550	$1,864,050

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair of sealant	2 work-hours × $85 per hour = $170	$129	$299
Insulation blanket replacement	24 work-hours × $85 per hour = $2,040	6,312	8,352
Leak checks	6 work-hours × $85 per hour = $510	0	510

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–14 The Boeing Company: Amendment 39–21397 ; Docket No. FAA–2020–0331; Product Identifier 2020–NM–019–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, line numbers 1 through 1934 inclusive.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report that sealant was not applied to the side of body (SOB) slot inside of a pressurized boundary, which could lead to inconsistent application of the required secondary fuel barrier sealant (vapor barrier). The FAA is issuing this AD to address possible ignition of flammable fluid vapors, fire, or explosion, or fuel vapor inhalation by passengers and crew.

(f) Compliance

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

(g) SOB Slot Inspection and Related Investigative and Corrective Actions

Within 9 months after the effective date of this AD: Do a general visual inspection for insufficient sealant in the SOB slot, and do all applicable related investigative and corrective actions, in accordance with Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020. Do all related investigative and corrective actions before further flight, except as provided in paragraph (h) of this AD.

(h) Deferred Repair

Repair of insufficient sealant as required by paragraph (g) of this AD may be deferred for 10 days provided there is no fuel present in the center tank as specified in the procedures in item 28–02A of the operator's existing FAA-approved minimum equipment list, and there is no fuel contamination in the air distribution mix bay (ADMB).

(i) Reporting Provisions

Although the service information referenced in Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020, specifies to report inspection findings, this AD does not require any report.

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraphs (g), (h), and (i) of this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraph (j)(1), (2), or (3) of this AD.

(1) Boeing Multi Operator Message MOM–MOM–20–0049–01B(R1), dated January 29, 2020.

(2) Boeing Multi Operator Message MOM–MOM–20–0049–01B(R2), dated August 4, 2020.

(3) Boeing Multi Operator Message MOM–MOM–20–0049–01B(R3), dated September 23, 2020.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(l) Related Information

(1) For more information about this AD, contact James Laubaugh, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3622; email: *james.laubaugh@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (4) of this AD.

(m) Material Incorporated by Reference

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

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

(i) Boeing Multi Operator Message MOM–MOM–20–0049–01B(R4), dated September 28, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on January 14, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03592 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0467; Product Identifier 2020–NM–056–AD; Amendment 39–21399; AD 2021–02–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 717–200 airplanes. This AD was prompted by a report that during takeoff, both the captain's and first officer's airspeed indications froze at 80 knots. This AD requires modifying the air data heat (ADH) system to display the proper airspeed indications, testing, and any applicable corrective actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0467.

Examining the AD Docket

You may examine the AD docket on the internet at *https://*

www.regulations.gov by searching for and locating Docket No. FAA–2020–0467; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Eric Igama, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5388; fax: 562–627–5210; email: *roderick.igama@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 717–200 airplanes. The NPRM published in the **Federal Register** on June 19, 2020 (85 FR 37031). The NPRM was prompted by a report that during takeoff, both the captain's and first officer's airspeed indications froze at 80 knots. The NPRM proposed to require modifying the ADH system to display the proper airspeed indications, testing, and any applicable corrective actions.

The FAA is issuing this AD to address pitot tubes blocked by ice, which could affect the airspeed indication provided to the flightcrew through the ADH system and result in loss of aircraft controllability.

Comments

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

Support for the NPRM

Three commenters, The Air Line Pilots Association, International (ALPA), Boeing, and Patrick Imperatrice, indicated support for the NPRM.

Request To Withdraw the NPRM

Hawaiian Airlines stated that existing crew procedures would produce the same result as the actions specified in the proposed AD and asserted that the proposed actions should remain optional. The commenter explained that with these existing crew procedures, operators should not be subjected to the requirements specified in the proposed AD. The commenter asserted that operators with strong crew cultures, processes, and procedures would mitigate the unsafe condition addressed by the NPRM without unnecessary and costly modification to the airplane. The commenter provided text from its existing crew procedures with recommended changes and asked that these procedures be considered as alternatives to the actions described in Boeing Alert Service Bulletin 717–30A0009, dated March 31, 2020 (which was identified as the appropriate source of service information for completing the actions specified in the NPRM). The FAA infers that the commenter is requesting that the NPRM be withdrawn.

The FAA disagrees with the commenter's request. The FAA has determined that the crew procedures identified by the commenter do not adequately address the unsafe condition associated with the ADH system. The FAA's determination was based on a report from Boeing that three operators reported that the ADH is not operating correctly. The FAA notes that this AD requires modifying the ADH system to display the proper airspeed indications and testing to address the unsafe condition, while the commenter's proposal involves only procedural changes in lieu of a modification. However, operators may apply for an alternative method of compliance (AMOC) under the provisions of paragraph (i) of this AD, provided they can show that their proposed crew/operational procedures would adequately address the unsafe condition. The FAA has determined that it is necessary to proceed with issuing the final rule as proposed and has not changed this AD regarding this issue.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Service Bulletin 717–30A0009, dated March 31, 2020. This service information describes procedures for modifying the ADH system by installing new wires between the station (STA) 110 relay panel and the left radio rack, and doing tests and applicable corrective actions until the tests are passed. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Relevant Rulemaking

Group 1 airplanes identified in Boeing Alert Service Bulletin 717–30A0009, dated March 31, 2020, are identified as airplanes with a concurrent requirement: Boeing Alert Service Bulletin 717–30A0003. AD 2007–13–01, Amendment 39–15105 (72 FR 33852, June 20, 2007) (AD 2007–13–01) requires accomplishing the actions specified in Boeing Alert Service Bulletin 717–30A0003, Revision 2, dated November 28, 2006. AD 2007–13–01 requires operators to accomplish the actions (changing the wiring for the air data sensor heating system) within 24 months after July 25, 2007 (the effective date of AD 2007–13–01). The FAA issued that AD to address the display of suspect or erratic airspeed indications during heavy rain conditions, which could reduce the ability of the flightcrew to maintain the safe flight and landing of the airplane. Since AD 2007–13–01 already requires the concurrent service information, the FAA has not included Boeing Alert Service Bulletin 717–30A0003, Revision 2, dated November 28, 2006, as a concurrent requirement in this AD.

Costs of Compliance

The FAA estimates that this AD affects 113 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification *	12 work-hours × $85 per hour = $1,020	$4,863	$5,883	$664,779

* The modification costs include the costs for testing. The FAA has received no definitive data on the costs of the corrective actions necessary to pass the testing.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–16 The Boeing Company: Amendment 39–21399; Docket No. FAA–2020–0467; Product Identifier 2020–NM–056–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 717–200 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and rain protection.

(e) Unsafe Condition

This AD was prompted by a report that during takeoff, both the captain's and first officer's airspeed indicators froze at 80 knots. The FAA is issuing this AD to address pitot tubes blocked by ice, which could affect the airspeed indication provided to the flightcrew through the air data heat (ADH) system and result in loss of aircraft controllability.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 717–30A0009, dated March 31, 2020, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 717–30A0009, dated March 31, 2020.

(h) Exception to Service Information Specifications

Where Boeing Alert Service Bulletin 717–30A0009, dated March 31, 2020, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

For more information about this AD, contact Eric Igama, Aerospace Engineer, Systems and Equipment Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5388; fax: 562–627–5210; email: *roderick.igama@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 717–30A0009, dated March 31, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on January 14, 2021.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03591 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0673; Product Identifier 2020–NM–076–AD; Amendment 39–21395; AD 2021–02–12]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, Model A330–300 series airplanes, Model A330–900 series airplanes, Model A340–200 series airplanes, Model A340–300 series airplanes, Model A340–500 series airplanes, Model A340–600 series airplanes, Model A380–800 series airplanes; and Model A350–941 and –1041 airplanes. This AD was prompted by a report of a quality issue with a certain repair method of damage-through honeycomb core cargo linings by speed patches applied to both sides. This AD requires repair of each affected part, or replacement with a serviceable part, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0673.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0673; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–100R1, dated November 4, 2020 (EASA AD 2020–100R1) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, Model A330–300 series airplanes, Model A330–900 series airplanes, Model A340–200 series airplanes, Model A340–300 series airplanes, Model A340–500 series airplanes, Model A340–600 series airplanes, Model A380–800 series airplanes; and Model A350–941 and –1041 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, Model A330–300 series airplanes, Model A330–900 series airplanes, Model A340–200 series airplanes, Model A340–300 series airplanes, Model A340–500 series airplanes, Model A340–600 series airplanes, Model A380–800 series airplanes; and Model A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on July 28, 2020 (85 FR 45350). The NPRM was prompted by a report of a quality issue with a certain repair method of damage-through honeycomb core cargo linings by speed patches applied to both sides. The NPRM proposed to require a detailed inspection of each affected part and, depending on findings, repair of each affected part, or replacement with a serviceable part, as specified in an EASA AD.

The FAA is issuing this AD to address reduced ability of repaired linings to contain smoke or fire, resulting in an increased risk of an uncontained fire in the cargo compartment and consequent structural damage to the airplane. See the MCAI for additional background information.

Comments

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

Requests To Reference Revised EASA AD

American Airlines and Delta Airlines (DAL) requested that the FAA revise the proposed AD to reference EASA AD 2020–100R1. DAL pointed out that there are several instances where the requirements in EASA AD 2020–0100 are unclear, contradictory to the source

documents, or unnecessarily restrictive to operators. DAL further asserted that, if the final rule is published using EASA AD 2020–0100, it will have to request several alternative methods of compliance (AMOCs) in order to comply with the proposed requirements. In addition, DAL provided a detailed discussion of the changes identified in EASA AD 2020–100R1 and how those changes would favorably impact operators, pointing out that certain inspection and repair requirements necessary to complete the actions specified in the proposed AD are clarified.

The FAA agrees with the requests for the reasons provided. The FAA has determined that the changes in EASA AD 2020–100R1 are relieving in nature (removing the requirement for a one-time detailed inspection (DET) of each affected part) and that this final rule should reference the revised EASA AD. Therefore, the FAA has revised this AD to refer to EASA AD 2020–100R1, dated November 4, 2020. The FAA has also revised the SUMMARY and Related Service Information under 1 CFR part 51 and Costs of Compliance sections of this AD to remove reference to the one-time detailed inspection that is no longer required by this AD.

Request To Use Flight Days Instead of Calendar Days

DAL requested that the proposed AD be revised to use flight days instead of calendar days to ensure that the requirements can be easily accomplished within a C-Check schedule. DAL noted that the inspection and rework of the ceiling, partition, and sidewall linings in the forward, aft and bulk cargo compartments is a labor-intensive activity that will be difficult to accomplish in any check shorter than a C-check without jeopardizing the 'return to service' dates for affected aircraft. Further, DAL noted that the required rework might then require special visits in order to be fully accomplished. DAL stated that due to the current global circumstances with the pandemic, some operators have grounded airplanes and reduced workforces to help account for decreased flying demand, so accommodating a special visit will be more difficult than during normal operations. DAL noted that, for operators that are affected by global circumstances, the flammability risk of the discrepant repair should not be present when the airplane is parked with no power and cargo, and that additional time for compliance should be granted with an equivalent level of safety present.

The FAA disagrees with the request. Using flight days versus calendar days would be difficult for operators to track AD compliance. AD compliance requirements are calculated independently of scheduled maintenance periods. Also, showing compliance with the AD does not require the airplane to be on a C-check schedule. The FAA has determined that a compliance time of 23 months from the effective date of the AD represents an adequate amount of time to accomplish the actions required. If an operator is unable to accomplish the actions for whatever reason or has the airplane in storage, it may request approval of an AMOC under the provisions of paragraph (i)(1) of this AD. We have not changed this AD in this regard.

Request To Add Exceptions To Address Errors in Required for Compliance (RC) Procedures

DAL requested that the FAA add two exceptions to paragraph (h) of the proposed AD to address errors in RC procedures specified in the service information referenced in EASA AD 2020–100R1. DAL pointed out that Aircraft Maintenance Manual (AMM) Task A330–A–25–XX–3743–02001–690A–C specified in Airbus Service Bulletin A330–25–3743, dated September 23, 2019, includes a typographical error in a measurement. Additionally, DAL pointed out that AMM Task A330–A–25–XX–3743–01001–520A–A specified in Airbus Service Bulletin A330–25–3743, dated September 23, 2019, also specifies an incorrect AMM task reference for removing cargo liners in the forward cargo compartment. DAL suggested wording for the requested exceptions.

The FAA has confirmed the typographical errors and agrees with the request for the reasons provided. The FAA has revised paragraph (h) of this AD accordingly.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2020–100R1, dated November 4, 2020, describes procedures for repair of each affected part, or replacement with a serviceable part. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 127 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repair	2 work-hours × $85 per hour = $170	* $	$170	$21,590

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–12 Airbus SAS: Amendment 39–21395; Docket No. FAA–2020–0673; Product Identifier 2020–NM–076–AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (10) of this AD, certificated in any category.

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

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

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

(4) Model A330–941 airplanes.

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

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

(7) Model A340–541 airplanes.

(8) Model A340–642 airplanes.

(9) Model A350–941 and –1041 airplanes.

(10) Model A380–841, –842, and –861 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Reason

This AD was prompted by a report of a quality issue with a certain repair method of damage-through honeycomb core cargo linings by speed patches applied to both sides. The FAA is issuing this AD to address reduced ability of repaired linings to contain smoke or fire, resulting in an increased risk of an uncontained fire in the cargo compartment and consequent structural damage to the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–100R1, dated November 4, 2020 (EASA AD 2020–100R1).

(h) Exceptions to EASA AD 2020–100R1

(1) Where EASA AD 2020–100R1 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2020–100R1 refers to ''19 May 2020 [the effective date of EASA AD 2020–0100 at original issue],'' this AD requires using the effective date of this AD.

(3) Where task Aircraft Maintenance Manual (AMM) A330–A–25–XX–3743–02001–690A–C specified in Airbus Service Bulletin A330–25–3743, dated September 23, 2019, states the measured dimension shall be equal to or more than ''30 mm (1.81 in),'' this AD requires using the measured dimension of ''30 mm (1.18 in).''

(4) Where AMM task A330–A–25–XX–3743–01001–520A–A of Airbus Service Bulletin A330–25–3743, dated September 23, 2019, states, ''For the FWD cargo-compartment, refer to Ref. AMM Task 25–54–00–000–801,'' this AD requires using, ''For the FWD cargo-compartment, refer to Ref. AMM Task 25–52–00–000–801.''

(5) The ''Remarks'' section of EASA AD 2020–100R1 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(j) Related Information

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

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–100R1, dated November 4, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–100R1, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this

EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0673.

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

Issued on January 14, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03594 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0580; Product Identifier 2020–NM–052–AD; Amendment 39–21389; AD 2021–02–06]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–02–03, which applied to all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. AD 2019–02–03 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD retains the requirements of AD 2019–02–03 and requires incorporation of an airworthiness limitation that applies only to certain airplanes. This AD also requires replacing or modifying certain engine fire control panels, which terminates the revised airworthiness limitation added in this final rule when a certain condition is met. Since the FAA issued AD 2019–02–03, the manufacturer has developed a new fire handle design that will eliminate the need for the airworthiness limitations required by AD 2019–02–03. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0580.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0580; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3553; email: *takahisa.kobayashi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–02–03, Amendment 39–19550 (84 FR 2437, February 7, 2019) (AD 2019–02–03). AD 2019–02–03 applied to all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes. The NPRM published in the **Federal Register** on July 15, 2020 (85 FR 42749). The NPRM was prompted by reports of warpage of internal engine fire handle components that can cause binding and prevent proper operation, and by the development of a new fire handle design that will eliminate the need for the airworthiness limitations required by AD 2019–02–03. The NPRM proposed to retain the requirements of AD 2019–02–03 and to require incorporation of an airworthiness limitation that applies only to certain airplanes. The NPRM also proposed to require replacing or modifying certain engine fire control panels, which would terminate the revised airworthiness limitation added in this final rule when a certain condition is met. The FAA is issuing this AD to address a latent failure of the engine fire handle, which could result in the inability to extinguish an engine fire that, if uncontrollable, could lead to wing failure.

Comments

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

Request To Expand Approved Alternative Methods of Compliance (AMOCs)

Boeing asked that paragraph (o)(4) of the proposed AD (paragraph (p)(4) of this AD), which specifies ''AMOCs approved previously for AD 2019–02–03 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD,'' also include approval of AMOCs for the corresponding provisions of paragraph (k) of the proposed AD. Boeing stated that approved AMOC RA–19–00263 (Boeing letter requesting an AMOC for AD 2019–02–03) provides inspection instructions equivalent to Airworthiness Limitation 28–AWL–FIRE in figure 1 to paragraph (g) of the proposed AD. Boeing added that the inspection instructions of 28–AWL–FIRE in figure 1 to paragraph (g) of the proposed AD and in figure 2 to paragraph (k) of the proposed AD are identical.

The FAA partially agrees with the commenter's request. The FAA previously approved Boeing Alert Requirements Bulletin B787–81205–SB260007–00 RB, Issue 001, dated February 22, 2019, as an AMOC to the requirements of paragraph (g) of AD 2019–02–03. The inspection instructions provided in Boeing Alert Requirements Bulletin B787–81205–SB260007–00 RB, Issue 001, dated February 22, 2019, are equivalent to 28–AWL–FIRE in figure 1 to paragraph (g) of this AD and in figure 2 to paragraph (k) of this AD. Because paragraph (k) is a new requirement of this AD, the FAA has instead added the action as an alternative terminating action, paragraph (l) of this AD, for the repetitive inspections for airplanes equipped with an engine fire control panel having part number (P/N)

412600–001 or an engine fire shutoff switch having P/N 417000–101 or P/N 417000–102.

Request To Revise Parts Installation Prohibition Paragraph or Extend Compliance Time

American Airlines, All Nippon Airways (ANA), and United Airlines asked that the FAA revise paragraph (n) of the proposed AD to continue to allow, for a limited time, the installation of the engine fire handle with the part numbers on which an unsafe condition has been identified after the effective date of the AD. American Airlines and United Airlines asked that installing the parts be allowed for 15 months after the effective date of the AD, which is consistent with the referenced service information. ANA asked that it be allowed to install the parts until the engine fire handle with new part numbers is installed in accordance with paragraph (i) of the proposed AD. ANA also asked that the compliance time specified in paragraph (i) of the proposed AD be extended to 24 months after the effective date of the AD.

American Airlines stated that this change is necessary because the repetitive inspections of the engine fire handle with the part numbers on which an unsafe condition has been identified remain in place until those part numbers are replaced by the new part numbers. American Airlines added that they would need a full panel or two new switches if there were findings of failed fire handles because they can't mix old and new parts. American Airlines, ANA, and United Airlines expressed their concern regarding parts availability due to limited supply. ANA stated that the supply of the engine fire handles with new part numbers is insufficient worldwide due to the Coronavirus Disease 2019 (COVID–19).

The FAA partially agrees with the commenters' requests, based on the limited supply of new part numbers available due to extenuating circumstances. The FAA has received a number of reports of failed engine fire handles found during the repetitive inspections. The frequency of failures found in service, and the provisions of the ''Parts Installation Prohibition'' of paragraph (n) of the proposed AD, could have forced operators to install the new part numbers from a limited supply before reaching the compliance time in paragraph (i) of this AD. Furthermore, as American Airlines stated, the repetitive inspections required by 28–AWL–FIRE remain in place until a fire handle with new part numbers is installed. The repetitive inspections do not eliminate the latent failure of the engine fire handle, but they will limit the number of flights the airplanes can operate with a failed engine fire handle. Since paragraph (n) of the proposed AD would have applied to all airplanes including those airplanes delivered with the engine fire control panel having the new part number required by paragraph (i) of this AD, and since it is necessary to prohibit the replacement of the new part number with the old part number for those airplanes that are not covered by paragraph (i) of this AD, the FAA has revised paragraph (o) of this AD (paragraph (n) of the proposed AD) to include an exception for airplanes identified in Boeing Requirements Bulletin B787–81205–SB260008–00 RB, Issue 001, dated March 10, 2020. For airplanes affected by paragraph (i) of this AD, once operators comply with the actions required by paragraph (i) of this AD by installing parts with new part numbers, operators must continue to maintain the airplane configuration compliant with the AD requirements. For airplanes delivered with the fire control panel having the new part number, paragraph (o) of this AD prohibits the replacement of the new part numbers with the old part numbers on which the unsafe condition was identified.

The FAA does not agree with ANA's request to revise the compliance time in paragraph (i) of this AD to 24 months. Since the level of impact of parts supply may vary for each operator, we are unable to determine an appropriate change to the compliance time in paragraph (i) of this AD that will result in a minimal impact on safety and on operators' ability to comply with the AD requirements. Therefore, operators that encounter limited parts supply that could hinder the ability to meet the requirements of paragraph (i) of this AD within the compliance time indicated should request an AMOC to extend this compliance time. If data are provided to show that the extended compliance time addresses the unsafe condition, operators may request approval of an AMOC under the provisions of paragraph (p) of this AD. The FAA has not changed this AD regarding this issue.

Request To Revise Airworthiness Limitation 28–AWL–FIRE

The Air Line Pilots Association, International (ALPA) asked that the FAA revise Airworthiness Limitation 28–AWL–FIRE to remove the language that allows the flightcrew to perform an operational check of the engine fire handle. ALPA stated that because the proposed AD retains the actions required by AD 2019–02–03, the proposed AD also retains the allowance for the flightcrew to perform the engine fire handle operational check in a manner approved by the principal operations inspector in lieu of being performed by specifically trained maintenance personnel per the procedures in 28–AWL–FIRE. ALPA previously highlighted concern with the flightcrew conducting the check required by AD 2019–02–03, and reiterated that concern in comments on the NPRM. ALPA noted that without specific training to flightcrews, the opportunity exists for the operational check to be performed inaccurately. ALPA concluded that to ensure that the check is effective until the terminating action is accomplished, consistent procedures should be followed and documented by appropriately trained maintenance personnel, as specified in the proposed AD.

The FAA does not agree with the commenter's request. Airworthiness Limitation 28–AWL–FIRE includes an allowance for the flightcrew to perform an operational check of the engine fire handle since the inspection interval is relatively short and the inspection procedure is relatively straightforward. Based on this allowance, operators can develop the procedures for the flightcrew to perform an operational check in a timely manner. Operators must ensure that the operational check required by 28–AWL–FIRE is accurately performed by the flightcrew in order for the procedures to be approved by the principal operations inspector. The FAA has not changed this AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Requirements Bulletin B787–81205–SB260008–00 RB, Issue 001, dated March 10, 2020. The service information describes procedures for replacing the

engine fire control panel with a new or modified panel.

The FAA also reviewed Boeing Requirements Bulletin B787–81205–SB260007–00 RB, Issue 001, dated February 22, 2019. The service information describes procedures for performing repetitive operational checks of the engine fire handle.

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

Costs of Compliance

The FAA estimates that this AD affects 122 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2019–02–03 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new maintenance or inspection program revision to be $7,650 (90 work-hours × $85 per work-hour).

ESTIMATED COSTS FOR REQUIRED REPLACEMENT OR MODIFICATION

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement or modification	2 work-hours × $85 per hour = $170	$5,000	$5,170	$630,740

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2019–02–03, Amendment 39–19550 (84 FR 2437, February 7, 2019), and

■ b. Adding the following new AD:

2021–02–06 The Boeing Company: Amendment 39–21389; Docket No. FAA–2020–0580; Product Identifier 2020–NM–052–AD.

(a) Effective Date

This AD is effective March 30, 2021.

(b) Affected ADs

This AD replaces AD 2019–02–03, Amendment 39–19550 (84 FR 2437, February 7, 2019) (AD 2019–02–03).

(c) Applicability

This AD applies to all The Boeing Company Model 787–8, 787–9, and 787–10 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection.

(e) Unsafe Condition

This AD was prompted by reports of warpage of internal engine fire handle components that can cause binding and prevent proper operation, and by the development of a new fire handle design that will prevent the unsafe condition. The FAA is issuing this AD to address a latent failure of the engine fire handle, which could result in the inability to extinguish an engine fire that, if uncontrollable, could lead to wing failure.

(f) Compliance

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

(g) Retained Maintenance/Inspection Program Revision, With no Changes

This paragraph restates the requirements of paragraph (g) of AD 2019–02–03, with no changes. Within 14 days after February 22, 2019 (the effective date of AD 2019–02–03), revise the existing maintenance or inspection program, as applicable, to add airworthiness limitation 28–AWL–FIRE, by incorporating the information specified in figure 1 to paragraph (g) of this AD into the Airworthiness Limitations Section of the Instructions for Continued Airworthiness. The initial compliance time for accomplishing the actions specified in figure 1 to paragraph (g) of this AD is within 45 days after February 22, 2019.

BILLING CODE 4910–13–P

Figure 1 to paragraph (g): *Engine fire handle operational check*

AWL No.	Task	Interval	Applicability	Description
28-AWL -FIRE	ALI	30 days	787-8, -9, and -10 airplanes	Engine Fire Handle Operational Check. Concern: The fire handle design can result in airplanes operating with an engine fire handle that cannot be operated. A latently failed engine fire handle could prevent the fire extinguishing agent from being able to be released. In the event of certain engine fires, the potential exists for an engine fire to be uncontrollable. Perform the following engine fire handle checks (unless checked by the flightcrew in a manner approved by the principal operations inspector): 1. Press the left engine fire handle solenoid override button, and verify that the handle can be pulled up using normal force. CAUTION: Do not rotate the engine fire handle; inadvertent discharge of the fire extinguishing agent would result. Although not required, pulling the FIRE EXT BOTTLE – ENG L1 and L2 circuit breakers will prevent fire bottle discharge. 2. Stow the handle. 3. Press the right engine fire handle solenoid override button, and verify that the handle can be pulled up using normal force. CAUTION: Do not rotate the engine fire handle; inadvertent discharge of the fire extinguishing agent would result. Although not required, pulling the FIRE EXT BOTTLE – ENG R1 and R2 circuit breakers will prevent fire bottle discharge. 4. Stow the handle. Replace any engine fire handle that fails any operational check before further flight.

(h) Retained Restrictions on Alternative Actions and Intervals, With New Exception

This paragraph restates the requirements of paragraph (h) of AD 2019–02–03, with a new exception. Except as required by paragraph (k) of this AD: After accomplishment of the existing maintenance or inspection program revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (p) of this AD.

(i) New Required Actions

For the airplanes identified in Boeing Requirements Bulletin B787–81205–SB260008–00 RB, Issue 001, dated March 10, 2020: At the applicable times specified in the ''Compliance'' paragraph of Boeing Requirements Bulletin B787–81205–SB260008–00 RB, Issue 001, dated March 10, 2020, except as specified by paragraph (j) of this AD, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing

Requirements Bulletin B787–81205–SB260008–00 RB, Issue 001, dated March 10, 2020.

Note 1 to paragraph (i): Guidance for accomplishing the actions required by paragraph (i) of this AD can be found in Boeing Service Bulletin B787–81205–SB260008–00, Issue 001, dated March 10, 2020, which is referred to in Boeing Requirements Bulletin B787–81205–SB260008–00 RB, Issue 001, dated March 10, 2020.

(j) Exception to Service Information Specifications

Where Boeing Requirements Bulletin B787–81205–SB260008–00 RB, Issue 001, dated March 10, 2020, uses the phrase ''the issue 001 date of Requirements Bulletin B787–81205–SB260008–00 RB,'' this AD requires using ''the effective date of this AD.''

(k) New Maintenance/Inspection Program Revision

Except as provided by paragraph (l) of this AD: Prior to or concurrently with the actions specified in paragraph (i) of this AD, or within 30 days after the effective date of the AD, whichever occurs later; revise the existing maintenance or inspection program, as applicable, by incorporating the information specified in figure 2 to paragraph (k) of this AD into the Airworthiness Limitations Section of the Instructions for Continued Airworthiness. It is acceptable to change the limitation number from 28–AWL–FIRE to 26–AWL–FIRE, provided the rest of the information in figure 2 to paragraph (k) of this AD remains unchanged. The initial compliance time for accomplishing the actions specified in figure 2 to paragraph (k) of this AD is within 30 days after accomplishing the last 28–AWL–FIRE or 26–AWL–FIRE task, as applicable. Accomplishing the revision required by this paragraph terminates the actions required by paragraph (g) of this AD.

Figure 2 to paragraph (k): *Engine fire handle operational check*

AWL No.	Task	Interval	Applicability	Description
28-AWL -FIRE	ALI	30 days	787-8, -9, and -10 airplanes equipped with an engine fire control panel having part number 412600-001 or an engine fire shutoff switch having part number 417000-101 or 417000-102	Engine Fire Handle Operational Check. Concern: The fire handle design can result in airplanes operating with an engine fire handle that cannot be operated. A latently failed engine fire handle could prevent the fire extinguishing agent from being able to be released. In the event of certain engine fires, the potential exists for an engine fire to be uncontrollable. Perform the following engine fire handle checks (unless checked by the flightcrew in a manner approved by the principal operations inspector): 1. Press the left engine fire handle solenoid override button, and verify that the handle can be pulled up using normal force. CAUTION: Do not rotate the engine fire handle; inadvertent discharge of the fire extinguishing agent would result. Although not required, pulling the FIRE EXT BOTTLE – ENG L1 and L2 circuit breakers will prevent fire bottle discharge. 2. Stow the handle. 3. Press the right engine fire handle solenoid override button, and verify that the handle can be pulled up using normal force. CAUTION: Do not rotate the engine fire handle; inadvertent discharge of the fire extinguishing agent would result. Although not required, pulling the FIRE EXT BOTTLE – ENG R1 and R2 circuit breakers will prevent fire bottle discharge. 4. Stow the handle. Replace any engine fire handle that fails any operational check before further flight.

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(l) Alternative Operational Check

For Model 787–8, –9, and –10 airplanes equipped with an engine fire control panel having part number 412600–001 or an engine fire shutoff switch having part number 417000–101 or 417000–102: As an alternative to performing the actions required by paragraph (k) of this AD, within 30 days after accomplishing the last 28–AWL–FIRE or 26–AWL–FIRE task or accomplishing the last operational check of the engine fire handle in accordance with Boeing Requirements Bulletin B787–81205–SB260007–00 RB, Issue 001, dated February 22, 2019; perform an operational check of the engine fire handle in accordance with Boeing Requirements Bulletin B787–81205–SB260007–00 RB, Issue 001, dated February 22, 2019. Repeat the operational check thereafter at intervals not to exceed 30 days. Accomplishing the initial check specified in this paragraph terminates the actions required by paragraph (g) of this AD.

Note 2 to paragraph (l): Guidance for accomplishing the actions specified in paragraph (l) of this AD can be found in

Boeing Service Bulletin B787–81205–SB260007–00, Issue 001, dated February 22, 2019, which is referred to in Boeing Requirements Bulletin B787–81205–SB260007–00 RB, Issue 001, dated February 22, 2019.

(m) New Restrictions on Alternative Actions and Intervals

After accomplishment of the existing maintenance or inspection program revision required by paragraph (k) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (p) of this AD.

(n) Terminating Action for Repetitive Inspections

Accomplishment of the actions required by paragraph (i) of this AD on all affected airplanes in an operator's fleet terminates the requirements of paragraph (k) of this AD.

(o) Parts Installation Prohibition

For Model 787–8, –9, and –10 airplanes, except those identified in Boeing Requirements Bulletin B787–81205–SB260008–00 RB, Issue 001, dated March 10, 2020: As of the effective date of this AD, no person may install on any airplane any engine fire control panel having part number (P/N) 412600–001, or any engine fire shutoff switch having P/N 417000–101 or P/N 417000–102.

(p) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (q) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2019–02–03 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(q) Related Information

For more information about this AD, contact Tak Kobayashi, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3553; email: *takahisa.kobayashi@faa.gov.*

(r) Material Incorporated by Reference

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

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

(i) Boeing Requirements Bulletin B787–81205–SB260007–00 RB, Issue 001, dated February 22, 2019.

(ii) Boeing Requirements Bulletin B787–81205–SB260008–00 RB, Issue 001, dated March 10, 2020.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on January 7, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03567 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0653; Project Identifier AD–2020–00631–E; Amendment 39–21390; AD 2021–02–07]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all General Electric Company (GE) GEnx–1B64, –1B64/P1, –1B64/P2, –1B67, –1B67/P1, –1B67/P2, –1B70, –1B70/75/P1, –1B70/75/P2, –1B70/P1, –1B70/P2, –1B70C/P1, –1B70C/P2, –1B74/75/P1, –1B74/75/P2, –1B76/P2, and –1B76A/P2 model turbofan engines. This AD was prompted by a report of a crack in the outer fuel manifold causing fuel leakage. This AD requires initial and repetitive visual inspections of the cushioned loop clamp (p-clamp) and, depending on the results of the inspection, a spot fluorescent penetrant inspection (FPI) of the outer fuel manifold. Depending on the results of the FPI, this AD may require replacement of the outer fuel manifold. This AD also requires initial and repetitive replacements of the p-clamp. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ae.ge.com;* website: *www.ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0653.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0653; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; fax: (781) 238–7199; email: *Mehdi.Lamnyi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would

apply to all GE GEnx–1B64, –1B64/P1, –1B64/P2, –1B67, –1B67/P1, –1B67/P2, –1B70, –1B70/75/P1, –1B70/75/P2, –1B70/P1, –1B70/P2, –1B70C/P1, –1B70C/P2, –1B74/75/P1, –1B74/75/P2, –1B76/P2, and –1B76A/P2 model turbofan engines. The NPRM published in the **Federal Register** on July 20, 2020 (85 FR 43752). The NPRM was prompted by a report of a crack in the outer fuel manifold causing fuel leakage. In the NPRM, the FAA proposed to require initial and repetitive visual inspections of the p-clamp and, depending on the results of the inspection, a spot FPI of the outer fuel manifold. Depending on the results of the FPI, the NPRM proposed to require replacement of the outer fuel manifold. The NPRM also proposed to require initial and repetitive replacements of the p-clamp. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from six commenters. The commenters were Air Lines Pilots Association, International (ALPA); American Airlines (AAL); Boeing Commercial Airplanes (Boeing); GE Aviation (GE); Ethiopian Airlines; and United Airlines (UAL). One commenter requested changes to paragraph (g), Required Actions, of this AD and to On-Condition Costs. Two commenters requested a change to compliance that was not implemented. Two commenters requested clarification of the AD requirements. Four of the six commenters expressed support for the AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Add Affected P-Clamp Significant Item Number (SIN)

GE requested that the FAA update paragraph (g), Required Actions, of this AD to include the affected p-clamp SIN when the p-clamp is referenced. GE recognized that the p-clamp SIN is defined in paragraph (h), Definition, of this AD. However, GE reasoned that as there are multiple p-clamps to be inspected per GEnx–1B Engine Manual, 05–21–00, MANDATORY INSPECTION, listing the p-clamp SIN in paragraph (g) of this AD avoids confusion.

The FAA agrees to include the p-clamp SIN in paragraph (g) of this AD.

Request To Update On-Condition Cost

GE requested that the FAA revise the replacement of the outer fuel manifold in On-Condition Costs from 250 work hours to 2 work hours. GE reasoned that GE GEnx–1B Service Bulletin (SB) 73–0080 R01, dated August 29, 2019, references GE GEnx–1B SB 73–0053 for instructions to replace the outer fuel manifold. GE noted that GE GEnx–1B SB 73–0053 estimates that two hours are needed to replace the outer fuel manifold. GE stated that the discrepancy between the NPRM and service information could cause confusion or lead operators to opt to remove the engine to perform the outer fuel manifold replacement.

The FAA agrees. The FAA changed the estimated labor hours for replacing the outer fuel manifold in the On-Condition Costs section of this AD from 250 work hours to 2 work hours. The FAA also changed the estimated cost per product for replacing the outer fuel manifold in the On-Condition Costs section of this AD from $39,650 to $18,570, which reflects the reduction in labor hours.

Request To Allow Use of Later Revisions of Service Information

AAL and UAL requested that the FAA add the phrase ''or later'' when referencing the service information in this AD. AAL stated that the manufacturer indicated that the service information is intended only to be a containment measure. Specifying ''or later'' could prevent numerous requests for Alternative Methods of Compliance if the manufacturer revises the service information. UAL stated that the manufacturer is developing a terminating action and, as a result, a revision to the service information is expected.

The FAA disagrees with adding language that allows the use of later revisions of the service information when performing the required actions of this AD. Later revisions of the service information have not been published by the manufacturer or reviewed by the FAA.

Request To Clarify Sending the Outer Fuel Manifold for Repair

AAL requested that the FAA clarify if the removed outer fuel manifold needs to be sent for repair. AAL cited references within paragraph 3.B.(4)(b) of GE GEnx–1B SB 73–0080 R01, dated August 29, 2019, that instructs operators to send removed outer fuel manifolds for repair.

The FAA agrees that sending a removed outer fuel manifold for repair, as stated in paragraph 3.B.(4)(b) of GE GEnx–1B SB 73–0080 R01, dated August 29, 2019, is not mandated by this AD. This AD addresses the unsafe condition by requiring the removal of an outer fuel manifold if a crack or a sign of leakage is found and replacing it with a part eligible for installation. This AD does not require sending an outer fuel manifold removed in accordance with paragraph (g)(2)(i) of this AD for repair. The FAA clarified this by adding paragraph (i), No Repair Requirement, to this AD.

Request To Clarify if Need To Comply Again

Ethiopian Airlines asked if operators who inspected and replaced the affected p-clamp using GE GEnx–1B SB 73–0080 R01, dated August 29, 2019, before the effective date of this AD, need to comply again.

If operators performed the initial visual inspection and replacement of the p-clamp as required by paragraphs (g)(1) and (3) of this AD before the effective date of this AD, then these actions meet the initial visual inspection and replacement requirements of this AD. Paragraph (f), Compliance, of this AD requires compliance with this AD within the times specified, unless already done. If the initial visual inspection and replacement of the p-clamp was already performed prior to the effective date of this AD, operators must perform the repetitive inspections, follow-on-actions, and replacements of the p-clamp required by paragraphs (g)(1)(i), (2), and (3) of this AD using the stated compliance intervals.

Support for the AD

AAL, ALPA, Boeing, and UAL expressed support for the AD.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE GEnx–1B SB 73–0080 R01, dated August 29, 2019. This SB describes procedures for replacing the p-clamp located at the signal fuel tube hose, SIN 34200, and instructions for removing the signal fuel tube hose when a p-clamp is found damaged or missing. This service information is reasonably available because the interested parties have access to it through their normal course

of business or by the means identified in **ADDRESSES**.

Interim Action

The FAA considers this AD interim action. The manufacturer is still reviewing this unsafe condition and may develop a terminating action.

Costs of Compliance

The FAA estimates that this AD affects 190 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visually inspect the p-clamp	0.25 work-hours × $85 per hour = $21.25	$0	$21.25	$4,037.50
Replace the p-clamp	0.25 work-hours × $85 = $21.25	102	123.25	23,417.50

The FAA estimates the following costs to do any necessary FPIs and replacements that are required based on the results of the visual inspection. The agency has no way of determining the number of aircraft that require FPI or replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
FPI the outer fuel manifold	2.5 work-hours × $85 per hour = $212.50	$0	$212.50
Replace the outer fuel manifold	2 work-hours × $85 per hour = $170	18,400	18,570

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–07 General Electric Company: Amendment 39–21390; Docket No. FAA–2020–0653; Project Identifier AD–2020–00631–E.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all General Electric Company (GE) GEnx–1B64, –1B64/P1, –1B64/P2, –1B67, –1B67/P1, –1B67/P2, –1B70, –1B70/75/P1, –1B70/75/P2, –1B70/P1, –1B70/P2, –1B70C/P1, –1B70C/P2, –1B74/75/P1, –1B74/75/P2, –1B76/P2, and –1B76A/P2 model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7310, Engine Fuel Distribution.

(e) Unsafe Condition

This AD was prompted by a report of a crack in the outer fuel manifold causing fuel leakage. The FAA is issuing this AD to prevent failure of the outer fuel manifold. The unsafe condition, if not addressed, could result in engine fire and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 500 flight cycles (FCs) after the effective date of this AD, perform a visual inspection of the cushioned loop clamp (p-clamp), significant item number (SIN) 34282, to verify the p-clamp is undamaged and installed.

(i) Thereafter, perform the visual inspection required by (g)(1) of this AD at intervals not to exceed 500 FCs since the last inspection.

(ii) [Reserved]

(2) If, during any visual inspection required by paragraphs (g)(1) or (g)(1)(i) of this AD, the p-clamp (SIN 34282) is outside of the limits in paragraph 3.B.(4) of GE GEnx–1B Service Bulletin (SB) 73–0080 R01, dated August 29, 2019, or if the p-clamp (SIN

34282) is missing, perform a spot fluorescent penetrant inspection of the outer fuel manifold, part number (P/N) 2403M46G01, SIN 34302, using Accomplishment Instructions, paragraph 3.B.(4)(b), of GE GEnx–1B SB 73–0080 R01, dated August 29, 2019.

(i) If a crack or a sign of fuel leakage is found, before further flight, remove the outer fuel manifold, P/N 2403M46G01, SIN 34302, from service and replace with a part eligible for installation.

(ii) [Reserved]

(3) Within 500 FCs after the effective date of this AD, and thereafter at intervals not to exceed 500 FCs from the last p-clamp replacement, replace the p-clamp (SIN 34282) with a new p-clamp (SIN 34282). Complete this required action after performing the visual inspections required by paragraphs (g)(1) and (g)(1)(i) of this AD.

(h) Definition

For the purpose of this AD, a p-clamp is a clamp, P/N J1432P12, with SIN 34282, located at the signal fuel tube hose, SIN 34200, as shown in Accomplishment Instructions, paragraph 3, Figure 1, ''Outer Fuel Manifold and Clamp Location,'' of GE GEnx–1B SB 73–0080 R01, dated August 29, 2019.

(i) No Repair Requirement

Sending a removed outer fuel manifold for repair, as set forth in the Accomplishment Instructions, paragraph 3.B.(4)(b), of GE GEnx–1B SB 73–0080 R01, dated August 29, 2019, is not required by this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(k) Related Information

For more information about this AD, contact Mehdi Lamnyi, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7743; fax: (781) 238–7199; email: *Mehdi.Lamnyi@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) General Electric Company (GE) GEnx–1B Service Bulletin 73–0080 R01, dated August 29, 2019.

(ii) [Reserved]

(3) For GE service information identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ae.ge.com;* website: *www.ge.com.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

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

Issued on January 8, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03571 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1110; Project Identifier MCAI–2020–01003–T; Amendment 39–21426; AD 2021–04–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–23–15, which applied to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. AD 2019–23–15 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 30, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 30, 2021.

ADDRESSES: For service information identified in this final rule, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec, J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus;* internet *http://a220world.airbus.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1110.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1110; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2020–25, dated July 16, 2020 (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for

and locating Docket No. FAA–2020–1110.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–23–15, Amendment 39–19809 (84 FR 67830, December 12, 2019) (AD 2019–23–15). AD 2019–23–15 applied to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The NPRM published in the **Federal Register** on December 7, 2020 (85 FR 78805). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address reduced structural integrity of the airplane or reduced controllability of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. The Air Line Pilots Association, International (ALPA) stated that it supports the NPRM.

Conclusion

The FAA reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Airbus Canada Limited Partnership has issued A220 Airworthiness Limitations BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020. This service information describes airworthiness limitations for fuel tank systems, safe life limits, and certification maintenance requirements. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 11 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2019–23–15, Amendment 39–19809 (84 FR 67830, December 12, 2019), and

■ b. Adding the following new AD:

2021–04–05 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–21426; Docket No. FAA–2020–1110; Project Identifier MCAI–2020–01003–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 30, 2021.

(b) Affected ADs

This AD replaces AD 2019–23–15, Amendment 39–19809 (84 FR 67830, December 12, 2019).

(c) Applicability

This AD applies to the Airbus Canada Limited Partnership (type certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, identified in paragraphs (c)(1) and (2) of this AD.

(1) Model BD–500–1A10 airplanes, serial numbers 50001 and subsequent with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 18, 2020.

(2) Model BD–500–1A11 airplanes, serial numbers 55001 and subsequent with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 18, 2020.

(d) Subject

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

(e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced structural integrity of the airplane or reduced controllability of the airplane.

(f) Compliance

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

(g) New Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020. The initial compliance time for doing the tasks is at the time specified in Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020, or within 90 days after the effective date of this AD, whichever occurs later.

(h) New No Alternative Actions, Intervals, or Critical Design Configuration Control Limitations (CDCCLs)

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Airbus Canada Limited Partnership's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–25, dated July 16, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1110.

(2) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7330; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Airbus Canada Limited Partnership A220 Airworthiness Limitations, BD500–3AB48–11400–02, Issue 011.00, dated June 18, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact Airbus Canada Limited Partnership, 13100 Henri-Fabre Boulevard, Mirabel, Québec, J7N 3C6, Canada; telephone 450–476–7676; email *a220_crc@abc.airbus;* internet *http://a220world.airbus.com.*

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on February 4, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–03578 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0892; Airspace Docket No. 20–AWP–40]

RIN 2120–AA66

Revocation and Amendment of Class E airspace; Bucholz Army Airfield Kwajalein Atoll, Republic of the Marshall Islands

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes the Class E airspace designated as an extension to the Class D airspace and amends the Class E airspace extending upward from 700 and 1200 feet AGL at Bucholz AAF, Kwajalein Atoll, Republic of the Marshall Islands. The Class E airspace extending upward from 700 feet is amended to ensure it does not extend beyond 12 nautical miles from the outer shoreline of the Atoll into international airspace.

DATES: Effective 0901 UTC, April 22, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA).

For information on the availability of FAA Order 7400.11E at NARA, email: *federal.legal@nara.gov,* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2020–0892 in the **Federal Register** (85 FR 67317; October 22, 2020) removing the Class E airspace

designated as an extension to the Class D and modifying the Class E airspace extending upward from 700 feet AGL at Bucholz AAF, Kwajalein Island. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Class E airspace designations are published in paragraph 6004 and 6005 of FAA Order 7400.11E, dated July 21, 2020 and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by removing the Class E airspace designated as an extension to the Class D and modifying the Class E airspace extending upward from 700 feet AGL at Bucholz AAF, Kwajalein Island.

The FAA removes the Class E4 airspace as aircraft using the published approaches do not descend below 1,000 feet more than 2 miles outside the Bucholtz AAF Class D surface area. Thus, the airspace does not meet the requirements for a Class E airspace area designated as an extension to a Class D.

In addition, the FAA amends the Class E airspace extending upward from 700 feet above the surface of the earth by removing that airspace extending upward from 1,200 feet AGL within a 100-mile radius of the airport and adding language to exclude anything beyond the U.S. Territorial Zone.

Class E Airspace Areas Designated as an extension to a Class D or Class E Surface Area, and Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth are published in section 6004, and 6005 of FAA Order 7400.11E dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Airspace listed in this document will be subsequently published in the Order. FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

ICAO Considerations

As part of this action relates to navigable airspace outside the United States, this notice is submitted in accordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices. The application of International Standards and Recommended Practices by the FAA, Office of System Operations Airspace and AIM, Airspace & Rules, in areas outside the United States domestic airspace, is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of Article 12 and Annex 11 is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the convention, state-owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this airspace action of removing the Class E airspace designated as an extension to the Class D and modifying the Class E airspace extending upward from 700 feet AGL at Bucholz AAF, Kwajalein Island qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020 and effective September 15, 2020, is amended as follows:

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AWP RM E4 Kwajalein Island, Marshall Islands, RMI [Removed]

Bucholz AAF (Kwajalein KMR) (ATOLL), Kwajalein Island
(Lat. 08°43′12″ N, long. 167°43′54″ E)

* * * * *

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

* * * * *

AWP RM E5 Kwajalein Island, Marshall Islands, RMI [Amended]

Bucholz AAF (Kwajalein KMR) (ATOLL), Kwajalein Island
(Lat. 08°43′12″ N, long. 167°43′54″ E)

That airspace extending upward from 700 feet above the surface of the earth within a 12-mile radius of Bucholz AAF (Kwajalein KMR) (ATOLL), excluding that airspace that extends beyond 12 miles from and parallel to the Kwajalein outer shoreline.

* * * * *

Issued in Washington, DC, on January 27, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–02065 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1016; Airspace Docket No. 20–ASW–9]

RIN 2120–AA66

Amendment of Class E Airspace; Dumas, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet above the surface at Billy Free Municipal Airport, Dumas, AR. This action is the result of airspace reviews caused by the decommissioning of the Monticello very high frequency omnidirectional range (VOR) navigational aid as part of the VOR Minimum Operational Network (MON) Program.

DATES: Effective 0901 UTC, April 22, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace extending upward from 700 feet above the surface at Billy Free Municipal Airport, Dumas, AR, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 73655, November 19, 2020) for Docket No. FAA–2020–1016 to amend Class E airspace extending upward from 700 feet above the surface at Billy Free Municipal Airport, Dumas, AR, by removing the Monticello VOR and associated extension from the airspace legal description; and removing the city associated with the airport to comply with changes to FAA Order 7400.2M, Procedures for Handling Airspace Matters.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in Paragraph 6005, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

The Rule

The FAA is amending 14 CFR part 71 by modifying the Class E airspace extending upward from 700 feet above the surface at Billy Free Municipal Airport, Dumas, AR, by removing the Monticello VOR and associated extension from the airspace legal description; and removing the city associated with the airport to comply with changes to FAA Order 7400.2M, Procedures for Handling Airspace Matters. These changes are necessary for continued safety and management of IFR operations in the area.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is minimal. Since this is a routine matter that only affects air traffic procedures an air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

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

* * * * *

ASW AR E5 Dumas, AR [Amended]

Billy Free Municipal Airport, AR
(Lat. 33°53′04″ N, long. 91°32′03″ W)

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

Issued in College Park, Georgia, on January 28, 2021.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2021–02318 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0003; Airspace Docket No. 19–ACE–11]

RIN 2120–AA66

Amendment of VOR Federal Airways V–12, V–74, and V–516 in the Vicinity of Anthony, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–12, V–74, and V–516, in the vicinity of Anthony, KS. The modifications are necessary due to the planned decommissioning of the VOR portion of the Anthony, KS, VOR/Tactical Air Navigation (VORTAC) navigation aid (NAVAID), which provides navigation guidance for portions of the affected VOR Federal airways. The Anthony VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, April 22, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2020–0003 in the **Federal Register** (85 FR 3290; January 21, 2020), amending VOR Federal airways V–12, V–74, and V–516 in the vicinity of Anthony, KS, due to the planned decommissioning of the VOR portion of the Anthony, KS, VORTAC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11E dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

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

The Rule

The FAA is amending 14 CFR part 71 by modifying VOR Federal airways V–12, V–74, and V–516. The planned decommissioning of the VOR portion of the Anthony, KS, VORTAC NAVAID has made this action necessary. The VOR Federal airway changes are outlined below.

V–12: V–12 extends between the Gaviota, CA, VORTAC and the

Shelbyville, IN, VOR/Distance Measuring Equipment (VOR/DME); and between the Allegheny, PA, VOR/DME and the Pottstown, PA, VORTAC. The airway segment between the Mitbee, OK, VORTAC and the Wichita, KS, VORTAC is removed. Additionally, the Amarillo, TX, VOR listed in the airway description is corrected to reflect the Panhandle, TX, VORTAC. The unaffected portions of the existing airway remain as charted.

V–74: V–74 extends between the Garden City, KS, VORTAC and the Magnolia, MS, VORTAC. The airway segment between the Dodge City, KS, VORTAC and the Pioneer, OK, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V–516: V–516 extends between the Liberal, KS, VORTAC and the Oswego, KS, VOR/DME. The airway segment between the Liberal, KS, VORTAC and the Pioneer, OK, VORTAC is removed. The unaffected portion of the existing airway remains as charted.

All radials listed in the VOR Federal airway descriptions below are unchanged and stated in True degrees.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V–12, V–74, and V–516, due to the planned decommissioning of the VOR portion of the Anthony, KS, VORTAC NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–12 [Amended]

From Gaviota, CA; San Marcus, CA; Palmdale, CA; 38 miles, 6 miles wide, Hector, CA; 12 miles, 38 miles, 85 MSL, 14 miles, 75 MSL, Needles, CA; 45 miles, 34 miles, 95 MSL, Drake, AZ; Winslow, AZ; 30 miles, 85 MSL, Zuni, NM; Albuquerque, NM; Otto, NM; Anton Chico, NM; Tucumcari, NM; Panhandle, TX; to Mitbee, OK. From Wichita, KS; Emporia, KS; INT Emporia 063° and Napoleon, MO, 243° radials; Napoleon; INT Napoleon 095° and Columbia, MO, 292° radials; Columbia; Foristell, MO; Troy, IL; Bible Grove, IL; to Shelbyville, IN. From Allegheny, PA; Johnstown, PA; Harrisburg, PA; INT Harrisburg 092° and Pottstown, PA, 278° radials; to Pottstown.

* * * * *

V–74 [Amended]

From Garden City, KS; to Dodge City, KS. From Pioneer, OK; Tulsa, OK; Fort Smith, AR; 6 miles, 7 miles wide (4 miles north and 3 miles south of centerline) Little Rock, AR; Pine Bluff, AR; Greenville, MS; to Magnolia, MS.

* * * * *

V–516 [Amended]

From Pioneer, OK; to Oswego, KS.

* * * * *

Issued in Washington, DC, on January 27, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–02066 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0879; Airspace Docket No. 20–AGL–36]

RIN 2120–AA66

Amendment of Class E Airspace; Kankakee, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Greater Kankakee Airport, Kankakee, IL. This action is the result of an airspace review caused by the decommissioning of the Kankakee VHF omnidirectional range (VOR) navigation aid as part of the VOR Minimum Operational Network (MON) Program.

DATES: Effective 0901 UTC, June 17, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington,

DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Greater Kankakee Airport, Kankakee, IL, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 71586; November 10, 2020) for Docket No. FAA–2020–0879 to amend the Class E airspace extending upward from 700 feet above the surface at Greater Kankakee Airport, Kankakee, IL. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 amends the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile (decreased from a 7-mile) radius of Greater Kankakee Airport, Kankakee, IL; removes the Kankakee VOR/DME and associated extensions from the airspace legal description; and amends the southwest extension to 4 (increased from 2) miles each side of the 214° (previously 218°) bearing from the Greater Kankakee: RWY 04–LOC (previously the airport) extending from the 6.6-mile (decreased from 7-mile) radius to 16.8 (increased from 16.6) miles southwest of the airport; and removing the city associated with the airport to comply with changes to FAA Order 7400.2M, Procedures for Handling Airspace Matters.

This action is the result of an airspace review caused by the decommissioning of the Kankakee VOR, which provided navigation information for the instrument procedures this airport, as part of the VOR MON Program.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

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

* * * * *

AGL IL E5 Kankakee, IL [Amended]

Greater Kankakee Airport, IL
(Lat. 41°04′17″ N, long. 87°50′47″ W)
Greater Kankakee: RWY 04–LOC
(Lat. 41°05′00″ N, long. 87°50′12″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Greater Kankakee Airport, and within 4 miles each side of the 214° bearing from the Greater Kankakee: RWY 04–LOC extending from the 6.6-mile radius of the airport to 16.8 miles southwest of the airport.

Issued in Fort Worth, Texas, on February 17, 2021.

Martin A. Skinner,

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

[FR Doc. 2021–03521 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1059; Airspace Docket No. 20–AGL–40]

RIN 2120–AA66

Revocation of Class E Airspace and Amendment of Class E Airspace; Lone Rock, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class E surface airspace at Tri-County Regional Airport, Lone Rock, WI, and amends the Class E airspace extending upward from 700 feet above the surface at Tri-County Regional Airport and Richland Airport, Richland Center, WI. This action is the result of airspace reviews caused by the decommissioning of the Lone Rock VHF omnidirectional range (VOR) navigation aid as part of the VOR Minimum Operational Network (MON) Program. The names and geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, June 17, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it revokes the Class E surface airspace at Tri-County Regional Airport, Lone Rock, WI, and amends the Class E airspace extending upward from 700 feet above the surface at Tri-County Regional Airport and Richland Airport, Richland Center, WI, which is contained within the Lone Rock, WI, airspace legal description, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 75267; November 25, 2020) for Docket No. FAA–2020–1059 to revoke the Class E surface airspace at Tri-County Regional Airport, Lone Rock, WI, and amend the Class E airspace extending upward from 700 feet above the surface at Tri-County Regional Airport and Richland Airport, Richland Center, WI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002 and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71:

Revokes the Class E surface airspace at Tri-County Regional Airport, Lone Rock, WI, as the weather reporting and communications requirements of FAA Order 7400.2M, Procedures for Handling Airspace Matters, are no longer being met to retain this airspace;

Amends the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile (increased from a 6.4-mile) radius of Tri-County Regional Airport, Lone Rock, WI; removes the city associated with the airport to comply with changes in FAA Order 7400.2M; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

And amends the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile (decreased from a 7.3-miles) radius of Richland Airport, Richland Center, WI, which is contained within the Lone Rock, WI, airspace legal description; and updates the name (previously Richland Center Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of airspace reviews caused by the decommissioning of the Lone Rock VOR, which provided navigation information for the instrument procedures these airports, as part of the VOR MON Program.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

AGL WI E2 Lone Rock, WI [Remove]

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

* * * * *

AGL WI E5 Lone Rock, WI [Amended]

Tri-County Regional Airport, WI
(Lat. 43°12′43″ N, long. 90°10′47″ W)
Richland Airport, WI
(Lat. 43°17′00″ N, long. 90°17′54″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Tri-County Regional Airport, and within a 6.4-mile radius of the Richland Airport.

Issued in Fort Worth, Texas, on February 17, 2021.

Martin A. Skinner,

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

[FR Doc. 2021–03522 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0525 Airspace Docket No. 20–ASO–7]

RIN 2120–AA66

Amendment and Establishment of Area Navigation (RNAV) Routes; South-Central Florida Metroplex Project

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends two existing low altitude RNAV routes (T-routes), and establishes nine new T-routes in support of the South-Central Florida Metroplex Project. The changes made in this rule will reduce the dependency of the National Airspace System (NAS) on ground-based navigational systems, and assist with the transition to a more efficient Performance Based Navigation (PBN) route structure.

DATES: Effective date 0901 UTC, April 22, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would expand the availability of RNAV in Florida to improve the efficiency of the NAS by lessening the dependency on ground-based navigation aids.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2020–0525 in the **Federal Register** (85 FR 36355; June 16, 2020) amending two existing low altitude RNAV routes (T-routes), and establishing nine new T-routes in support of the South-Central Florida Metroplex Project. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received, which was not germane to the NPRM.

United States Area Navigation routes are published in paragraph 6011 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in the document would be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by amending two existing low altitude RNAV routes (T-routes), and establishing nine new T-routes in support of the South-Central Florida Metroplex Project. The purpose of the routes is to expand the availability of RNAV, and improve the efficiency of the NAS by reducing the dependency on ground-based navigation systems. The following is a general description of the amended and new routes.

T–208: The FAA is amending T–208. T–208 is an existing route that extends from the Gators, FL (GNV), VORTAC eastward to the CARRA, FL, fix, then to the Ormond Beach (OMN) VORTAC. This action removes the Gators VORTAC, the CARRA fix, and the Ormond Beach VORTAC from the route. T–208 is realigned to start at the WALEE, FL, waypoint (WP) (located to the east of the current Gators, FL, VORTAC). The route then proceeds eastward to the MMKAY, FL; and the FOXAM, FL, WPs, (near the Florida east coast), then it turns southward through the SUUGR, FL, WP, the SMYRA, FL; OAKIE, FL; MALET, FL; TICCO, FL; and INDIA, FL, fixes, then continues southward through the DIMBY, FL, WP; the VALKA, FL, fix, the SULTY, FL; WIXED, FL; CLEFF, FL; DURRY, FL; and BOBOE, FL, WPs; and, terminates at the SHANC, FL, fix (located about 17 nautical miles (NM) northwest of the Fort Lauderdale, FL, VOR/DME). The amended route extends between the WALEE, FL, WP, and the SHANC, FL, fix.

T–210: The FAA is amending T–208. T–210 is an existing route that extends from the Taylor, FL (TAY), VORTAC, to the OHLEE, FL, WP, to the BRADO, FL, fix. The FAA is removing the Taylor, FL, VORTAC from the route and adding the MARQO, FL, WP (in the vicinity of the Taylor VORTAC) as the new start point. From the MARQO, FL, WP, the route proceeds southeastward through the OHLEE, FL, WP, and BRADO, FL, fix (as currently charted). After the BRADO, FL, fix, the route turns southward through the MMKAY, FL, and MRUTT, FL, WPs, the GUANO, FL, fix, and the KIZER, FL, fix (located about 23 NM north of the Orlando, FL (ORL), VORTAC). After KIZER, FL, the route turns southwestward through the EMSEE, FL; DAIYL, FL; AKOJO, FL; and PUNQU, FL, WPs, and terminates at the VARZE, FL, WP.

T–336: T–336 is a new route that extends between the TROYR, FL, WP, and the WIXED, FL, WP.

T–337: T–337 is a new route that extends between the SWENY, FL, WP, and the WEZER, FL, WP.

T–339: T–339 is a new route that extends between the KARTR, FL, WP, and the ODDEL, FL, WP.

T–341: T–341 is a new route that extend between the MEAGN, FL, WP, and the MARQO, FL, WP.

T–343: T–343 is a new route that extends between the WORPP, FL, WP, and the INDIA, FL, WP.

T–345: T–345 is a new route that extends between the MARKT, FL, WP, and the DEARY, FL, WP.

T–347: T–347 is a new route that extends between the CLEFF, FL, WP, and the SEBAG, FL, WP.

T–349: T–349 is a new route that extends between the VARZE, FL, WP, and the TROYR, FL, WP.

T–353: T–353 is a new route that extends between the FEBRO, FL, WP, and the ASTOR, FL, WP.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of amending low altitude RNAV routes T–208 and T–210, and establishing low altitude RNAV routes T–336, T–337, T–339, T–341, T–343, T–345, T–347, T–349, and T–355 in the south-central United States qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6011—United States Area Navigation Routes.

* * * * *

T–208 WALEE, FL to SHANC, FL [Amended]

WALEE, FL WP (Lat. 29°41′36.05″ N, long. 082°14′07.07″ W)
MMKAY, FL WP (Lat. 29°41′55.42″ N, long. 081°26′49.15″ W)
FOXAM, FL WP (Lat. 29°33′37.73″ N, long. 081°09′37.84″ W)
SUUGR, FL WP (Lat. 29°19′40.38″ N, long. 081°07′20.79″ W)
SMYRA, FL FIX (Lat. 29°00′19.48″ N, long. 080°59′34.51″ W)
OAKIE, FL FIX (Lat. 28°51′04.26″ N, long. 080°55′52.35″ W)
MALET, FL FIX (Lat. 28°41′29.90″ N, long. 080°52′04.30″ W)
TICCO, FL FIX (Lat. 28°31′00.50″ N, long. 080°47′52.80″ W)
INDIA, FL FIX (Lat. 28°26′04.19″ N, long. 080°45′55.25″ W)
DIMBY, FL WP (Lat. 28°04′52.54″ N, long. 080°37′37.61″ W)
VALKA, FL FIX (Lat. 27°55′06.06″ N, long. 080°34′17.17″ W)
SULTY, FL WP (Lat. 27°48′12.41″ N, long. 080°32′59.17″ W)
WIXED, FL WP (Lat. 27°41′24.86″ N, long. 080°29′56.56″ W)
CLEFF, FL WP (Lat. 27°00′03.31″ N, long. 080°32′38.27″ W)
DURRY, FL WP (Lat. 26°43′46.96″ N, long. 080°24′09.25″ W)
BOBOE, FL WP (Lat. 26°28′48.72″ N, long. 080°23′05.23″ W)

SHANC, FL FIX (Lat. 26°18′51.14″ N, long. 080°20′00.16″ W)

* * * * *

T–210 MARQO, FL to VARZE, FL [Amended]

MARQO, FL WP (Lat. 30°30′53.57″ N, long. 082°32′45.62″ W)
OHLEE, FL WP (Lat. 30°16′06.04″ N, long. 082°06′32.53″ W)
BRADO, FL FIX (Lat. 29°55′21.88″ N, long. 081°28′07.89″ W)
MMKAY, FL WP (Lat. 29°41′55.42″ N, long. 081°26′49.15″ W)
MRUTT, FL WP (Lat. 29°12′12.40″ N, long. 081°23′55.50″ W)
GUANO, FL FIX (Lat. 29°05′58.73″ N, long. 081°23′18.93″ W)
KIZER, FL FIX (Lat. 28°55′26.00″ N, long. 081°22′17.83″ W)
EMSEE, FL WP (Lat. 28°50′43.72″ N, long. 081°32′47.03″ W)
DAIYL, FL WP (Lat. 28°49′10.74″ N, long. 081°41′29.68″ W)
AKOJO, FL WP (Lat. 28°45′44.01″ N, long. 081°43′31.54″ W)
PUNQU, FL WP (Lat. 28°34′33.65″ N, long. 081°49′22.43″ W)
VARZE, FL WP (Lat. 28°16′25.85″ N, long. 082°01′44.51″ W)

* * * * *

T–336 TROYR, FL to WIXED, FL [New]

TROYR, FL WP (Lat. 29°34′20.92″ N, long. 083°01′52.68″ W)
OMMNI, FL WP (Lat. 28°51′29.29″ N, long. 082°09′41.75″ W)
PUNQU, FL WP (Lat. 28°34′33.65″ N, long. 081°49′22.43″ W)
YOJIX, FL WP (Lat. 28°02′44.04″ N, long. 081°33′45.34″ W)
YONMA, FL WP (Lat. 28°03′55.68″ N, long. 081°24′31.18″ W)
ODDEL, FL WP (Lat. 28°05′45.51″ N, long. 081°10′10.24″ W)
DEARY, FL WP (Lat. 28°06′02.53″ N, long. 080°54′51.40″ W)
WIXED, FL WP (Lat. 27°41′24.86″ N, long. 080°29′56.56″ W)

* * * * *

T–337 SWENY, FL to WEZER, FL [New]

SWENY, FL WP (Lat. 26°33′58.08″ N, long. 082°12′21.08″ W)
RISKS, FL WP (Lat. 27°01′51.89″ N, long. 081°56′40.30″ W)
WEZER, FL WP (Lat. 28°02′26.59″ N, long. 082°02′39.60″ W)

* * * * *

T–339 KARTR, FL to ODDEL, FL [New]

KARTR, FL FIX (Lat. 25°29′45.76″ N, long. 081°30′46.24″ W)
DEEDS, FL FIX (Lat. 25°58′40.31″ N, long. 081°13′59.60″ W)
SWAGS, FL FIX (Lat. 26°10′37.07″ N, long. 081°05′59.93″ W)
ZAGPO, FL WP (Lat. 26°23′47.41″ N, long. 080°57′25.83″ W)
DIDDY, FL FIX (Lat. 27°18′38.15″ N, long. 080°52′55.92″ W)
ODDEL, FL FIX (Lat. 28°05′45.51″ N, long. 081°10′10.24″ W)

* * * * *

T–341 MEAGN, FL to MARQO, FL [New]

MEAGN, FL WP (Lat. 26°14′17.20″ N, long. 080°47′23.64″ W)
ZAGPO, FL WP (Lat. 26°23′47.41″ N, long. 080°57′25.83″ W)
CUSEK, FL WP (Lat. 26°51′38.79″ N, long. 081°23′17.37″ W)
WEZER, FL WP (Lat. 28°02′26.59″ N, long. 082°02′39.60″ W)
VARZE, FL WP (Lat. 28°16′25.85″ N, long. 082°01′44.51″ W)
MARQO, FL WP (Lat. 30°30′53.57″ N, long. 082°32′45.62″ W)

* * * * *

T–343 WORPP, FL to INDIA, FL [New]

WORPP, FL FIX (Lat. 25°53′36.69″ N, long. 080°58′26.87″ W)
CUSEK, FL WP (Lat. 26°51′38.79″ N, long. 081°23′17.37″ W)
FEBRO, FL WP (Lat. 27°37′02.08″ N, long. 081°47′07.68″ W)
TAHRS, FL WP (Lat. 27°52′12.96″ N, long. 081°33′55.12″ W)
YOJIX, FL FIX (Lat. 28°02′44.04″ N, long. 081°33′45.34″ W)
YONMA, FL FIX (Lat. 28°03′55.68″ N, long. 081°24′31.18″ W)
ODDEL, FL FIX (Lat. 28°05′45.51″ N, long. 081°10′10.24″ W)
DEARY, FL FIX (Lat. 28°06′02.53″ N, long. 080°54′51.40″ W)
INDIA, FL FIX (Lat. 28°26′04.19″ N, long. 080°45′55.25″ W)

* * * * *

T–345 MARKT, FL to DEARY, FL [New]

MARKT, FL WP (Lat. 26°22′53.63″ N, long. 080°34′41.82″ W)
AIRBT, FL WP (Lat. 26°46′51.62″ N, long. 080°42′21.85″ W)
DOWDI, FL WP (Lat. 27°07′16.35″ N, long. 080°42′02.47″ W)
LLNCH, FL WP (Lat. 27°26′07.67″ N, long. 080°41′44.46″ W)
DEARY, FL WP (Lat. 28°06′02.53″ N, long. 080°54′51.40″ W)

* * * * *

T–347 CLEFF, FL to SEBAG, FL [New]

CLEFF, FL WP (Lat. 27°00′03.31″ N, long. 080°32′38.27″ W)
BAIRN, FL WP (Lat. 27°56′52.37″ N, long. 081°06′54.35″ W)
SABOT, FL WP (Lat. 28°15′05.10″ N, long. 081°13′37.16″ W)
CROPY, FL WP (Lat. 28°47′32.71″ N, long. 081°21′35.38″ W)
KIZER, FL WP (Lat. 28°55′26.00″ N, long. 081°22′17.83″ W)
GUANO, FL WP (Lat. 29°05′58.73″ N, long. 081°23′18.93″ W)
MRUTT, FL WP (Lat. 29°12′12.40″ N, long. 081°23′55.50″ W)
FOXAM, FL WP (Lat. 29°33′37.73″ N, long. 081°09′37.84″ W)
SEBAG, FL WP (Lat. 29°49′04.24″ N, long. 081°12′34.72″ W)

* * * * *

T–349 VARZE, FL to TROYR, FL [New]

VARZE, FL WP (Lat. 28°16′25.85″ N, long. 082°01′44.51″ W)
TROYR, FL WP (Lat. 29°34′20.92″ N, long. 083°01′52.68″ W)

* * * * *

T–353 FEBRO, FL to ASTOR, FL [New]

FEBRO, FL WP (Lat. 27°37′02.08″ N, long. 081°47′07.68″ W)
MOANS, FL WP (Lat. 27°54′49.97″ N, long. 081°44′54.89″ W)
PUNQU, FL WP (Lat. 28°34′33.65″ N, long. 081°49′22.43″ W)
AKOJO, FL WP (Lat. 28°45′44.01″ N, long. 081°43′31.54″ W)
DAIYL, FL WP (Lat. 28°49′10.74″ N, long. 081°41′29.68″ W)
EMSEE, FL WP (Lat. 28°50′43.72″ N, long. 081°32′47.03″ W)
KIZER, FL WP (Lat. 28°55′26.00″ N, long. 081°22′17.83″ W)
GUANO, FL WP (Lat. 29°05′58.73″ N, long. 081°23′18.93″ W)
MRUTT, FL WP (Lat. 29°12′12.40″ N, long. 081°23′55.50″ W)
FOXAM, FL WP (Lat. 29°33′37.73″ N, long. 081°09′37.84″ W)
ASTOR, FL WP (Lat. 29°47′55.30″ N, long. 081°18′06.11″ W)

* * * * *

Issued in Washington, DC, on February 19, 2021.

Mark E. Gauch,

Acting Manager, Rules and Regulations Team.

[FR Doc. 2021–03842 Filed 2–19–21; 4:55 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1058; Airspace Docket No. 20–AGL–39]

RIN 2120–AA66

Amendment of Class E Airspace and Revocation of Class E Airspace; Multiple Minnesota Towns

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at multiple Minnesota Towns and revokes the Class E airspace extending upward from 700 feet above the surface at Silver Bay Municipal Airport, Silver Bay, MN. This action is the result of airspace reviews caused by the decommissioning of multiple non-federal non-directional beacons (NDBs) within Minnesota. The names and geographic coordinates of various airports are also being updated to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, June 17, 2021. The Director of the Federal

Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at: Aitkin Municipal Airport-Steve Kurtz Field, Aitkin, MN; Appleton Municipal Airport, Appleton, MN; Benson Municipal Airport, Benson, MN; Cambridge Municipal Airport, Cambridge, MN; Cloquet Carlton County Airport, Cloquet, MN; Crookston Municipal Airport Kirkwood Field, Crookston, MN; Glencoe Municipal Airport, Glencoe, MN; and Mora Municipal Airport, Mora, MN, to support instrument flight rule operations at these airports; and revokes the Class E airspace extending upward from 700 feet above the surface at Silver Bay Municipal Airport, Silver Bay, MN, as this airspace is no longer required.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 76497; November 30, 2020) for Docket No. FAA–2020–1058 to amend the Class E airspace extending upward from 700 feet above the surface at multiple Minnesota Towns and revoke the Class E airspace extending upward from 700 feet above the surface at Silver Bay Municipal Airport, Silver Bay, MN. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71:

Amends the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile (increased from a 6.4-mile) radius of Aitkin Municipal Airport-Steve Kurtz Field, Aitkin, MN; removes the Aitkin NDB and associated extension from the airspace legal description; and updates the name (previously Aitkin Municipal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Amends the Class E airspace extending upward from 700 feet above the surface at Appleton Municipal Airport, Appleton, MN, by removing the extension northwest of the airport as it is no longer required; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Amends the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile (decreased from a 7-mile) radius of Benson Municipal Airport, Benson, MN; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Amends the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile (decreased from a 7-mile) radius of Cambridge Municipal Airport, Cambridge, MN; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Amends the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile (decreased from a 7-mile) radius of Cloquet Carlton County Airport, Cloquet, MN; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Amends the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile (decreased from a 7-mile) radius of Crookston Municipal Airport Kirkwood Field, Crookston, MN; and updates the name (previously Crookston Municipal Kirkwood Field) and geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Amends the Class E airspace extending upward from 700 feet above the surface at Glencoe Municipal Airport, Glencoe, MN, by removing the Glencoe NDB and associated extension from the airspace legal description; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Amends the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile (decreased from a 6.5-mile) radius of Mora Municipal Airport, Mora, MN; removes the Mora NDB and associated extension from the airspace legal description; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

And revokes the Class E airspace extending upward from 700 feet above the surface at Silver Bay Municipal Airport, Silver Bay, MN, as the instrument procedures at this airport have been cancelled and the airspace is no longer required.

This action is the result of airspace reviews caused by the decommissioning of the Aitkin, Appleton, Benson, Cambridge, Cloquet, Crookston, Glencoe, Mora, and Silver Bay non-federal NDBs which provided navigation information for the instrument procedures these airports.

FAA Order 7400.11, Airspace Designations and Reporting Points, is

published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

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

* * * * *

AGL MN E5 Aitkin, MN [Amended]

Aitkin Municipal Airport-Steve Kurtz Field, MN
(Lat. 46°32′54″ N, long. 93°40′36″ W)

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

* * * * *

AGL MN E5 Appleton, MN [Amended]

Appleton Municipal Airport, MN
(Lat. 45°13′39″ N, long. 96°00′16″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Appleton Municipal Airport.

* * * * *

AGL MN E5 Benson, MN [Amended]

Benson Municipal Airport, MN
(Lat. 45°19′55″ N, long. 95°39′02″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Benson Municipal Airport.

* * * * *

AGL MN E5 Cambridge, MN [Amended]

Cambridge Municipal Airport, MN
(Lat. 45°33′27″ N, long. 93°15′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Cambridge Municipal Airport.

* * * * *

AGL MN E5 Cloquet, MN [Amended]

Cloquet Carlton County Airport, MN
(Lat. 46°42′04″ N, long. 92°30′13″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Cloquet Carlton County Airport.

* * * * *

AGL MN E5 Crookston, MN [Amended]

Crookston Municipal Airport Kirkwood Field, MN
(Lat. 47°50′30″ N, long. 96°37′17″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Crookston Municipal Airport Kirkwood Field.

* * * * *

AGL MN E5 Glencoe, MN [Amended]

Glencoe Municipal Airport, MN
(Lat. 44°45′22″ N, long. 94°04′53″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Glencoe Municipal Airport.

* * * * *

AGL MN E5 Mora, MN [Amended]

Mora Municipal Airport, MN
(Lat. 45°53′31″ N long. 93°16′23″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Mora Municipal Airport.

* * * * *

AGL MN E5 Silver Bay, MN [Remove]

Issued in Fort Worth, Texas, on February 17, 2021.

Martin A. Skinner,

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

[FR Doc. 2021–03518 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0889; Airspace Docket No. 20–ASO–25]

RIN 2120–AA66

Amendment of Class D Airspace, and Class E Airspace; Smyrna, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace and Class E airspace extending upward from 700 feet above the surface at Smyrna Airport, Smyrna, TN. An evaluation of airspace in the area determined that this airport required an adjustment of Class D and E airspaces. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, August 12, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Ave., College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D airspace and Class E airspace extending upward from 700 feet above the surface at Smyrna Airport, Smyrna, TN, to support IFR operations in the area.

History

The FAA published a notice of prosed rulemaking in the **Federal Register** (85 FR 73436, November 18, 2020) for Docket No. FAA–2020–0889 to amend Class D airspace for Smyrna, TN, as the FAA has determined that extensions of 1.2 miles each side of the 142° bearing from the airport, extending from the 3.9-mile radius to 5.5 miles southeast of the airport, and within 1.2 miles each side of the 184° bearing from the airport, extending from the 3.9-mile radius to 5.5 miles south of the airport are necessary for the safety of IFR aircraft landing at Smyrna Airport. Also, the Class D ceiling is reduced from 3,000 feet to 2,500 feet as per the request of the air traffic facilities involved. In addition, the FAA proposed to update Class E airspace extending upward from 700 feet above the surface by increasing the airport radius from 9 miles to 11.5 miles. The FAA also proposed the reference to Nashville Class C in the Class D description be removed as it is not necessary (7400.11, 1003.b).

Finally, subsequent to publication of the proposal the FAA found the southern Class D extension was incorrectly identified as the 181° bearing. This action corrects the extension to read 184° bearing.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and Class E airspace designations are published in Paragraph 5000, and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic routes, and reporting points.

The Rule

This amendment to 14 CFR part 71 amends Class D airspace for Smyrna, TN, as the FAA has determined that extensions of 1.2 miles each side of the 142° bearing from the airport, extending from the 3.9-mile radius to 5.5 miles southeast of the airport, and within 1.2 miles each side of the 184° bearing from the airport, extending from the 3.9-mile radius to 5.5 miles south of the airport are necessary for the safety of IFR aircraft landing at Smyrna Airport. Also, the Class D ceiling is reduced from 3,000 feet to 2,500 feet as per the request of the air traffic facilities involved. In addition, the FAA updates Class E airspace extending upward from 700 feet above the surface by increasing the airport radius from 9 miles to 11.5 miles. Also, the reference to Nashville Class C, in the Class D description, is removed as it is not necessary (7400.11, 1003.b). FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO TN D Smyrna, TN [Amended]

Smyrna Airport, TN
(Lat. 36°00′32″ N, long. 86°31′12″ W)

That airspace extending upward from the surface to but not including 2,500 feet MSL within a 3.9-mile radius of the Smyrna Airport, and within 1.2 miles each side of the 142° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles southeast of the airport, and within 1.2-miles each side of the184° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles south of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

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

ASO TN E5 Nashville, TN [Amended]

Nashville International Airport, TN
(Lat. 36°07′28″ N, long. 86°40′41″ W)
Smyrna Airport

(Lat. 36°00′32″ N, long. 86°31′12″ W)
Music City Executive Airport
(Lat. 36°22′30″ N, long. 86°24′30″ W)
Lebanon Municipal Airport
(Lat. 36°11′25″ N, long. 86°18′56″ W)
Murfreesboro Municipal Airport
(Lat. 35°52′43″ N, long. 86°22′39″ W)
John C. Tune Airport
(Lat. 36°10′59″ N, long. 86°53′11″ W)
Vanderbilt University Medical Center Hospital Point In Space Coordinates
(Lat. 36°08′30″ N, long. 86°48′6″ W)

That airspace extending upward from 700 feet above the surface within a 15 mile radius of Nashville International Airport, and within a 11.5-mile radius of Smyrna Airport, and within a 7-mile radius of Music City Executive Airport, and within a 10-mile radius of Lebanon Municipal Airport, and within a 9-mile radius of Murfreesboro Municipal Airport, and within an 8.6-mile radius of John C. Tune Airport, and that airspace within a 6-mile radius of the Point In Space serving Vanderbilt University Medical Center Hospital.

Issued in College Park, Georgia, on February 1, 2021.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2021–02482 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1015; Airspace Docket No. 20–AEA–20]

RIN 2120–AA66

Amendment of the Class E Airspace; Bradford, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Bradford Regional Airport, Bradford, PA. This action is the result of airspace reviews caused by the decommissioning of the Bradford VHF omnidirectional range (VOR) navigation aid as part of the VOR Minimum Operational Network (MON) Program.

DATES: Effective 0901 UTC, June 17, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E surface airspace and the Class E airspace extending upward from 700 feet above the surface at Bradford Regional Airport, Bradford, PA, to support instrument flight rule operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 74302; November 20, 2020) for Docket No. FAA–2020–1015 to amend the Class E airspace at Bradford Regional Airport, Bradford, PA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to 14 CFR part 71:

Amends the Class E surface area airspace to within a 4.1-mile (decreased from a 4.3-mile) radius of Bradford Regional Airport, Bradford, PA; removes the Bradford VORTAC and the associated extension from the airspace legal description; adds an extension to 1 mile each side of the 134° bearing from the airport extending from the 4.1-mile radius of the airport to 4.2 miles southeast of the airport; and replaces the outdated term ''Airport/Facility Directory'' with ''Chart Supplement'';

And amends the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile (increased from a 6.5-mile) radius of Bradford Regional Airport; removes the Bradford VORTAC and the associated extension from the airspace legal description; removes the BRAFO LOM and the associated extension from the airspace legal description; and removes the city associated with the airport to comply with changes to FAA Order 7400.2M, Procedures for Handling Airspace Matters.

This action is the result of an airspace review caused by the decommissioning of the Bradford VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

AEA PA E2 Bradford, PA [Amended]

Bradford Regional Airport, PA
(Lat. 41°48′11″ N, long. 78°38′24″ W)

Within a 4.1-mile radius of the Bradford Regional Airport, and within 1 mile each side of the 134° bearing from the airport extending from the 4.1-mile radius to 4.2 miles southeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AEA PA E5 Bradford, PA [Amended]

Bradford Regional Airport, PA
(Lat. 41°48′11″ N, long. 78°38′24″ W)

HIVIT Waypoint
(Lat. 41°57′51″ N, long. 78°39′15″ W)

That airspace extending upward from 700 feet above the surface of the Earth within a 6.6-mile radius of the Bradford Regional Airport, and within a 6-mile radius of the HIVIT Waypoint serving the University of Pittsburgh.

Issued in Fort Worth, Texas, on February 17, 2021.

Martin A. Skinner,

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

[FR Doc. 2021–03517 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Canada

AGENCY: Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Notification of continuation of temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border. Such travel will be limited to ''essential travel,'' as further defined in this document.

DATES: These restrictions go into effect at 12 a.m. Eastern Standard Time on February 22, 2021 and will remain in effect until 11:59 p.m. Eastern Daylight Time (EDT) on March 21, 2021.

FOR FURTHER INFORMATION CONTACT: Stephanie Watson, Office of Field Operations Coronavirus Coordination Cell, U.S. Customs and Border Protection (CBP) at 202–325–0840.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2020, the Department of Homeland Security (DHS) published notice of its decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel,'' as further defined in that document.[1] The document described the developing circumstances regarding the COVID–19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID–19 within the United States and globally, DHS had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada posed a ''specific threat to human life or national interests.'' DHS later published a series of notifications continuing such limitations on travel until 11:59 p.m. EST on February 21, 2021.[2]

DHS continues to monitor and respond to the COVID–19 pandemic. As of the week of February 14, 2021, there have been over 108.2 million confirmed cases globally, with over 2.3 million confirmed deaths.[3] There have been over 27.6 million confirmed and probable cases within the United States,[4] over 820,000 confirmed cases in Canada,[5] and over 1.9 million confirmed cases in Mexico.[6]

Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the

[1] 85 FR 16548 (Mar. 24, 2020). That same day, DHS also published notice of its decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel,'' as further defined in that document. 85 FR 16547 (Mar. 24, 2020).

[2] *See* 86 FR 4969 (Jan. 19, 2021); 85 FR 83432 (Dec. 22, 2020); 85 FR 74603 (Nov. 23, 2020); 85 FR 67276 (Oct. 22, 2020); 85 FR 59670 (Sept. 23, 2020); 85 FR 51634 (Aug. 21, 2020); 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020). DHS also published parallel notifications of its decisions to continue temporarily limiting the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel.'' *See* 86 FR 4969 (Jan. 19, 2021); 85 FR 83433 (Dec. 22, 2020); 85 FR 74604 (Nov. 23, 2020); 85 FR 67275 (Oct. 22, 2020); 85 FR 59669 (Sept. 23, 2020); 85 FR 51633 (Aug. 21, 2020); 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020).

[3] WHO, Coronavirus disease 2019 (COVID–19) Weekly Epidemiological Update (Feb. 16, 2021), available at *https://www.who.int/publications/m/item/weekly-epidemiological-update-16-february-2021.*

[4] CDC, COVID Data Tracker (accessed Feb. 18, 2021), available at *https://covid.cdc.gov/covid-data-tracker/.*

[5] WHO, COVID–19 Weekly Epidemiological Update (Feb. 16, 2021).

[6] *Id.*

risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada poses an ongoing ''specific threat to human life or national interests.''

U.S. and Canadian officials have mutually determined that non-essential travel between the United States and Canada poses additional risk of transmission and spread of the virus associated with COVID–19 and places the populace of both nations at increased risk of contracting the virus associated with COVID–19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Canada, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[7] I have determined that land ports of entry along the U.S.-Canada border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in ''essential travel,'' as defined below. Given the definition of ''essential travel'' below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Canada border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Canada in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Canada);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Canada, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Canada. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on March 21, 2021. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.[8]

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2021–03774 Filed 2–19–21; 11:15 am]

BILLING CODE 9112–FP–P

[7] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

[8] DHS is working closely with counterparts in Mexico and Canada to identify appropriate public health conditions to safely ease restrictions in the future and support U.S. border communities.

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico

AGENCY: Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Notification of continuation of temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border. Such travel will be limited to ''essential travel,'' as further defined in this document.

DATES: These restrictions go into effect at 12 a.m. Eastern Standard Time on February 22, 2021 and will remain in effect until 11:59 p.m. Eastern Daylight Time (EDT) on March 21, 2021.

FOR FURTHER INFORMATION CONTACT: Stephanie Watson, Office of Field Operations Coronavirus Coordination Cell, U.S. Customs and Border Protection (CBP) at 202–325–0840.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2020, the Department of Homeland Security (DHS) published notice of its decision to temporarily

limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel,'' as further defined in that document.[1] The document described the developing circumstances regarding the COVID–19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID–19 within the United States and globally, DHS had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico posed a ''specific threat to human life or national interests.'' DHS later published a series of notifications continuing such limitations on travel until 11:59 p.m. EST on February 21, 2021.[2]

DHS continues to monitor and respond to the COVID–19 pandemic. As of the week of February 14, 2021, there have been over 108.2 million confirmed cases globally, with over 2.3 million confirmed deaths.[3] There have been over 27.6 million confirmed and probable cases within the United States,[4] over 820,000 confirmed cases in Canada,[5] and over 1.9 million confirmed cases in Mexico.[6]

Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico poses an ongoing ''specific threat to human life or national interests.''

U.S. and Mexican officials have mutually determined that non-essential travel between the United States and Mexico poses additional risk of transmission and spread of the virus associated with COVID–19 and places the populace of both nations at increased risk of contracting the virus associated with COVID–19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Mexico, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[7] I have determined that land ports of entry along the U.S.-Mexico border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in ''essential travel,'' as defined below. Given the definition of ''essential travel'' below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Mexico border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Mexico in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Mexico);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Mexico, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Mexico. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on March 21, 2021. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.[8]

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute

[1] 85 FR 16547 (Mar. 24, 2020). That same day, DHS also published notice of its decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel,'' as further defined in that document. 85 FR 16548 (Mar. 24, 2020).

[2] *See* 86 FR 4967 (Jan. 19, 2021); 85 FR 83433 (Dec. 22, 2020); 85 FR 74604 (Nov. 23, 2020); 85 FR 67275 (Oct. 22, 2020); 85 FR 59669 (Sept. 23, 2020); 85 FR 51633 (Aug. 21, 2020); 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020). DHS also published parallel notifications of its decisions to continue temporarily limiting the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel.'' *See* 86 FR 4969 (Jan. 19, 2021); 85 FR 83432 (Dec. 22, 2020); 85 FR 74603 (Nov. 23, 2020); 85 FR 67276 (Oct. 22, 2020); 85 FR 59670 (Sept. 23, 2020); 85 FR 51634 (Aug. 21, 2020); 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020.

[3] WHO, Coronavirus disease 2019 (COVID–19) Weekly Epidemiological Update (Feb. 16, 2021), available at *https://www.who.int/publications/m/item/weekly-epidemiological-update---16-february-2021.*

[4] CDC, COVID Data Tracker (accessed Feb. 18, 2021), available at *https://covid.cdc.gov/covid-data-tracker/.*

[5] WHO, COVID–19 Weekly Epidemiological Update (Feb. 16, 2021).

[6] *Id.*

[7] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

[8] DHS is working closely with counterparts in Mexico and Canada to identify appropriate public health conditions to safely ease restrictions in the future and support U.S. border communities.

appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2021–03776 Filed 2–19–21; 11:15 am]

BILLING CODE 9111–FP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, and 522

[Docket No. FDA–2019–N–5405]

New Animal Drug Applications; Beta-Aminopropionitrile Fumarate; *n*-Butyl Chloride; Cupric Glycinate Injection; Dichlorophene and Toluene; Orgotein for Injection; Tetracycline Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule, technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the withdrawal of approval of seven new animal drug applications (NADAs) for lack of compliance with the reporting requirements in an FDA regulation.

DATES: This rule is effective February 23, 2021.

FOR FURTHER INFORMATION CONTACT: David Alterman, Center for Veterinary Medicine (HFV–212), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–5720, *david.alterman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Elsewhere in this issue of the **Federal Register**, FDA gave notice that approval of the seven NADAs listed in table 1, and all supplements and amendments thereto, is withdrawn, effective February 23, 2021, for lack of compliance with reporting requirements in 21 CFR 514.80. As provided in the regulatory text of this document, the animal drug regulations are amended to reflect withdrawal of approval of the following applications and a current format. Withdrawal of approval of NADA 065–067 for Tetracycline Hydrochloride (HCl) Tablets did not require amending the regulations.

TABLE 1—NADAS FOR WHICH APPROVAL IS WITHDRAWN

Application No.	Trade name (drug)	Sponsor	21 CFR section
031–971	CUPRATE (cupric glycinate)	Walco International, Inc., 15 West Putnam, Porterville, CA 93257.	522.518
045–863	PALOSEIN (orgotein)	OXIS International, Inc., 6040 N Cutter Circle, Suite 317, Portland, OR 97217–3935.	522.1620
046–922	SERGEANTS SURE SHOT (*n*-butyl chloride) Capsules.	ConAgra Pet Products Co., 3902 Leavenworth St., Omaha, NE 68105.	520.260
046–923	SERGEANTS (*n*-butyl chloride) Puppy Worm Capsules.	ConAgra Pet Products Co., 3902 Leavenworth St., Omaha, NE 68105.	520.260
065–067	Tetracycline HCl Tablets	Premo Pharmaceutical Laboratories, Inc., 111 Leuning St., South Hackensack, NJ 07606.	Not codified
140–850	ELITE (dichlorophene and toluene) Dog and Cat Wormer.	RSR Laboratories, Inc., 501 Fifth St., Bristol, TN 37620.	520.580
141–107	BAPTEN for Injection (ß-aminopropionitrile fumarate).	Alaco, Inc., 1500 North Wilmot Rd., Suite 290–C, Tucson, AZ 85712.	522.84

Following these withdrawals of approval, Alaco, Inc.; ConAgra Pet Products Co.; OXIS International, Inc.; RSR Laboratories, Inc.; and Walco International, Inc., are no longer the sponsors of an approved application. Accordingly, 21 CFR 510.600(c) is being amended to remove the entries for these firms.

II. Legal Authority

This rule sets forth technical amendments to the regulations to codify recent actions on approved new animal drug applications and corrections to improve the accuracy of the regulations, and as such does not impose any burden on regulated entities. This rule is issued under section 512(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360b(i)), which requires **Federal Register** publication of the conditions of use of an approved or conditionally approved new animal drug and the name and address of the drug's sponsor in a ''notice, which upon publication shall be effective as a regulation.'' A notice published pursuant to section 512(i) is not subject to the notice-and-comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* See section 512(i) of the FD&C Act (21 U.S.C. 360b(i)); 21 CFR 10.40(e)(3); S. Rep. 90–1308, at 5 (1968).

This document does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a ''rule of particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808. Likewise, this is not a rule subject to Executive Order 12866, which defines a rule as ''an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency.''

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520 and 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 510, 520, and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entries for ''Alaco, Inc.'', ''OXIS International, Inc.'', ''RSR Laboratories, Inc.'', and ''Walco International, Inc.''; and in the table in paragraph (c)(2), remove the entries for ''024991'', ''049185'', ''058670'', and ''064146''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 4. Revise § 520.260 to read as follows:

§ 520.260 *n*-Butyl chloride.

(a) *Specifications.* Each capsule contains 221, 442, 884, or 1,768 milligrams (mg); or 4.42 grams of *n*-butyl chloride.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter:

(1) No. 023851 for capsules containing 221, 442, 884, or 1,768 mg, or 4.42 grams (g); and

(2) No. 054771 for capsules containing 221 mg.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer capsules orally based on body weight as follows:

(i) Capsules containing 221 mg: Under 5 pounds, 1 capsule per 1¼ pounds of body weight.

(ii) Capsules containing 442 mg: Under 5 pounds, 1 capsule per 2½ pounds of body weight.

(iii) Capsules containing 884 mg:

(A) Under 5 pounds, 1 capsule;

(B) 5 to 10 pounds, 2 capsules;

(C) 10 to 20 pounds, 3 capsules;

(D) 20 to 40 pounds, 4 capsules;

(E) Over 40 pounds, 5 capsules.

(iv) Capsules containing 1,768 mg: Dogs weighing 5 to 10 pounds, 1 capsule.

(v) Capsules containing 4.42 g: Dogs weighing 40 pounds or over, 1 capsule.

(2) *Indications for use.* For the removal of ascarids (*Toxocara canis* and *Toxascaris leonina*) and hookworms (*Ancylostoma caninum, Ancylostoma braziliense,* and *Uncinaria stenocephala*) from dogs.

(3) *Limitations.* Dogs should not be fed for 18 to 24 hours before being given the drug. Administration of the drug should be followed in ½ to 1 hour with a mild cathartic. Normal feeding may be resumed 4 to 8 hours after treatment. Animals subject to reinfection may be retreated in 2 weeks. A veterinarian should be consulted before using in severely debilitated dogs.

§ 520.580 [Amended]

■ 5. In § 520.580, in paragraph (b)(1), remove ''Nos. 017135, 023851, and 058670'' and in its place add ''Nos. 017135 and 023851''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 6. The authority citation for part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.84 [Removed]

■ 7. Remove § 522.84.

§ 522.518 [Removed]

■ 8. Remove § 522.518.

§ 522.1620 [Removed]

■ 9. Remove § 522.1620.

Dated: February 11, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–03251 Filed 2–22–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, and 522

[Docket No. FDA–2019–N–5405]

New Animal Drugs; Withdrawal of Approval of New Animal Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of seven new animal drug applications (NADAs) from multiple holders of these applications. The basis for the withdrawals is that the holders of these applications have repeatedly failed to file required annual reports for the applications.

DATES: Withdrawal of approval is effective February 23, 2021.

FOR FURTHER INFORMATION CONTACT: David Alterman, Center for Veterinary Medicine (HFV–212), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–5720, *david.alterman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The holders of approved applications to market new animal drugs are required to submit annual reports to FDA concerning each of their approved applications in accordance with § 514.80 (21 CFR 514.80).

In the **Federal Register** of January 8, 2020 (85 FR 919), FDA published a notice offering an opportunity for a hearing (NOOH) on a proposal to withdraw approval of seven NADAs because the sponsors had failed to submit the required annual reports for these applications. The holders of these applications did not respond to the NOOH. Failure to file a written notice of participation and request for a hearing as required by § 514.200(b) (21 CFR 514.200(b)) constitutes an election by the applicant not to make use of the opportunity for a hearing concerning the proposal to withdraw approval of the applications and a waiver of any contentions concerning the legal status of the drug products. Therefore, approval of the seven applications listed in table 1 is being withdrawn.

TABLE 1—NADAS FOR WHICH APPROVAL IS WITHDRAWN

Application No.	Trade name (drug)	Sponsor
031–971	CUPRATE (cupric glycinate)	Walco International, Inc., 15 West Putnam, Porterville, CA 93257.

TABLE 1—NADAS FOR WHICH APPROVAL IS WITHDRAWN—Continued

Application No.	Trade name (drug)	Sponsor
045–863	PALOSEIN (orgotein)	OXIS International, Inc., 6040 N. Cutter Circle, suite 317, Portland, OR 97217–3935.
046–922	SERGEANTS SURE SHOT (*n*-butyl chloride) Capsules	ConAgra Pet Products Co., 3902 Leavenworth St., Omaha, NE 68105.
046–923	SERGEANTS (*n*-butyl chloride) Puppy Worm Capsules	ConAgra Pet Products Co., 3902 Leavenworth St., Omaha, NE 68105.
065–067	Tetracycline Hydrochloride Tablets	Premo Pharmaceutical Laboratories, Inc., 111 Leuning St., South Hackensack, NJ 07606.
140–850	ELITE (dichlorophene and toluene) Dog and Cat Wormer	RSR Laboratories, Inc., 501 Fifth St., Bristol, TN 37620.
141–107	BAPTEN for Injection (ß-aminopropionitrile fumarate)	Alaco, Inc., 1500 North Wilmot Rd., suite 290–C, Tucson, AZ 85712.

The Commissioner of Food and Drugs (the Commissioner), under section 512(e)(2)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(2)(A)), finds that the holders of the applications listed in this document have repeatedly failed to submit reports required by § 514.80. In addition, under § 514.200(b), the Commissioner finds that the holders of the applications have waived any contentions concerning the legal status of the drug products. Therefore, under these findings, approval of the applications listed in this document, and all amendments and supplements thereto, is hereby withdrawn, effective February 23, 2021.

Elsewhere in this issue of the **Federal Register**, FDA is amending the animal drug regulations to reflect the withdrawal of approval of these applications.

Dated: February 11, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–03250 Filed 2–22–21; 8:45 am]

BILLING CODE 4164–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 202

[Docket No. 2019–4]

Group Registration of Works on an Album of Music

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is creating a new group registration option for musical works, sound recordings, and certain other works contained on an album. This option will permit the registration of a group of musical works or a group of sound recordings distributed together, regardless of whether such distribution occurs via physical or digital media. The final rule generally adopts the provisions set forth in the May 2019 notice of proposed rulemaking in this proceeding, with certain updates to reflect the planned implementation of new online applications for this option.

DATES: Effective March 26, 2021.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights, by email at *regans@copyright.gov;* Robert Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice, by email at *rkas@copyright.gov;* or John R. Riley, Assistant General Counsel, by email at *jril@copyright.gov.* Each can be contacted by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

The Copyright Act authorizes the Register of Copyrights to specify by regulation the administrative classes of works available for the purpose of seeking a registration and the nature of the deposits required for each class. In addition, Congress gave the Register the discretion to allow registration of groups of related works with one application and one filing fee, a procedure known as ''group registration.'' [1] Pursuant to this authority, the Register has issued regulations permitting the Office to issue group registrations for certain types of works, including for groups of newspapers, unpublished works, newsletters and serials, unpublished and published photographs, contributions to periodicals, secure test items, and short online literary works.[2]

On May 20, 2019, the Office published a Notice of Proposed Rulemaking (''NPRM'') proposing to create a new group registration option for musical works, sound recordings, and associated literary, pictorial, and graphic works contained on an album. This option is referred to as ''Group Registration of Works on an Album of Music,'' or ''GRAM.'' [3] The proposed rule would allow an applicant to register up to twenty musical works and twenty sound recordings, *i.e.,* forty total works, if the works were fixed in the same phonorecord, if the works were created by the same author or had at least one common author, and if the claimant for each work in the group was the same. The proposed rule also would permit the registration of associated literary, pictorial, and graphic works in the album, such as cover art, liner notes, or posters. To exercise this option, the Office proposed that applicants would be required to submit their claims through the online copyright registration system using the Standard Application.

The Office received thirteen comments in response to the NPRM, eleven from individuals, one from the National Music Publishers Association (''NMPA''), and a joint comment by the American Association of Independent Music (''A2IM'') and the Recording Industry Association of America (''RIAA''). Each commenter supported the Office's proposal to create the new group registration option, though some suggested various amendments to the proposed rule, including removing the proposed limit on the number of works that may be included in each claim and clarifying who could be listed as a claimant of a work in a GRAM registration.

Having reviewed and carefully considered the submitted comments, the Office now issues a final rule that generally follows the proposed rule, with some modifications. First, the rule requires claims under this option to be submitted using a new online

[1] 37 CFR 202.4; *see* 17 U.S.C. 408(c)(1).

[2] 37 CFR 202.4(c)–(k).

[3] 84 FR 22762 (May 20, 2019).

application specifically created for GRAM filings, rather than on the Standard Application. Second, to avoid inefficiencies in the examination process and ambiguities in the public record, the final rule requires groups of musical works and groups of sound recordings to be registered using separate applications.

II. The Final Rule

A. Eligibility Requirements

1. Definition of an ''Album''; Number of Works

The NPRM proposed limiting this group registration option to musical works, sound recordings, and any associated literary, pictorial, or graphic works on an album of music, such as liner notes and cover artwork. It defined an ''album'' as ''a single physical or electronic unit of distribution containing at least two musical works and/or sound recordings embodied in phonorecords, including any associated literary, pictorial, or graphic works distributed with the unit.'' [4] Three commenters requested clarification to ensure that the rule is sufficiently flexible to accommodate streaming services and other distribution models that do not involve the purchasing of copies. A2IM and RIAA argued that the term ''album'' should be eliminated, as it ''appear[s] to be tied to physical distribution and to an ownership model'' of music.[5] They proposed instead using the term ''release,'' which would be defined as ''a collection of two or more sound recordings or other media that are grouped together as those terms are used in the Copyright Act.'' [6] In their view, this approach would have the advantage of ''avoid[ing] the single unit of distribution concept'' and would be ''generic enough to embrace new release formats, such as a playlist that contains all new recordings released by a single artist and grouped together for commerce.'' [7] NMPA did not propose a change to the regulatory text but urged the Office to consider adding language to the *Compendium of U.S. Copyright Office Practices* or a circular to clarify that ''the GRAM option extends to albums that are not offered for digital purchase.'' [8]

The proposed definition of ''album'' is not intended to be limited to albums distributed under a model in which copies are acquired and retained by a purchaser—*e.g.,* downloads or physical media. A collection of musical recordings presented and offered to the public under authority of the copyright owner as a self-contained, fixed group would qualify as ''a single physical or electronic unit of distribution'' for purposes of the rule, regardless of whether the works are accessed via download, stream, or other mechanism. The key consideration is whether there is some indication of the copyright owner's intention to release the works together as a single collection, as distinguished from, for example, releasing them over time as additions to an evolving playlist.[9] Thus, a group of songs presented together on a streaming service may qualify as an album, provided the other eligibility requirements are met.

It is partly for this reason that the final rule defines ''album'' as a ''unit of distribution.'' As discussed in the NPRM, the Office's existing ''unit of publication'' option has long provided a vehicle for registering albums released in physical formats, such as a ''CD packaged with cover art and a leaflet containing lyrics'' or a ''box set of music CDs.'' [10] While the Office has declined to extend the unit of publication option to digital products, the GRAM option is intended to provide an analogous mechanism for digital music albums, in part to ensure that albums ''released first (or only) in digital formats'' are eligible for similar registration options.[11] The final rule accordingly retains the proposed definition, and the Office intends this further guidance to address comments regarding the scope of eligibility for the GRAM option.

Some commenters expressed concern with the proposed requirement that an applicant ''submit documentation . . . confirming that the musical works and/or sound recordings were included on the album.'' [12] A2IM and RIAA and an individual commenter, Jesse Morris, argued that it should be sufficient for an applicant to submit a sworn statement to that effect.[13] The Office agrees with this recommendation. As part of the application, the applicant will be required to certify that the works being registered satisfy the requirements for this group registration option, including that the works in the group were all published on the same album. The language regarding documentation accordingly has been removed from the final rule.

The NPRM also proposed to allow applicants to register up to twenty musical works or twenty sound recordings contained in an album. Some commenters requested that the Office remove or at least raise the twenty-work cap. In addition to noting that some albums contain more than twenty tracks,[14] commenters pointed out that the Standard Application does not contain a title cap and voiced concern that applicants could include more than twenty tracks in error.[15] NMPA suggested that such mistakes could result in a refusal to register or delays due to required correspondence.[16] As discussed further below, however, the Office will not be using the Standard Application for this registration option, and therefore believes that such errors are less likely. The new application for claims registered under this option will include a system validation that should prevent applicants from listing more than twenty musical works or sound recordings in the application.

More generally, the Office has concluded that a twenty-work cap is appropriate to balance the needs of applicants with the administrative capabilities of the Office. As noted in the NPRM, the Office believes that this limit will make this group option available to the majority of albums actually distributed in the market, and in any event, albums with more than twenty works would still benefit from this group option because applicants may be able to register additional works with a separate GRAM application.[17] Removing or raising the cap would likely increase the average processing time for these applications and thereby undermine the efficiency of this group option. Indeed, there is a potential that even the twenty-work cap may prove inefficient if the average number of works on each application approaches twenty. The Office remains open to

[4] 84 FR at 22764, 22768.

[5] A2IM & RIAA Comments at 4.

[6] *Id.*

[7] *Id.* at 5.

[8] NMPA Comments at 3 (citing 84 FR at 22764).

[9] *See Album, Dictionary.com* (2021 ed.), *https://www.dictionary.com/browse/album* (''a collection of audio recordings released together as a collected work'').

[10] 84 FR at 22764 (quoting U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices, Third Edition* (''*Compendium (Third)*'') sec. 1107.1).

[11] 84 FR at 22764.

[12] 84 FR at 22768.

[13] A2IM & RIAA Comments at 7–8; Jesse Morris Comments at 2.

[14] *See* A2IM & RIAA Comments at 5; NMPA Comments at 3; Anonymous Anonymous Comments at 2 (''20 seems low'' but ''25 to 30 would cover most albums and a handful of soundtracks''). Other commenters appeared satisfied with this number. *See* Anonymous Artist Comments at 2 (''As a musician most of my albums contain 10 to 15 songs.''); Brian Smith Comments at 2 (detailing desire to register ''20 songs including music recordings and artwork''); Rich Turgeon Comments at 2 (noting that it ''[w]ould be nice to just keep [the GRAM registration option] straightforward and be able to register up to 12–13 songs at a time'').

[15] A2IM & RIAA Comments at 5; NMPA Comments at 3.

[16] NMPA Comments at 3.

[17] 84 FR at 22764–65 & n.30.

revisiting this issue based on data that become available after implementation, including with respect to fees, staffing, and processing times.[18]

2. Custom Application; Works That May Be Included

Under the proposed rule, an applicant could register up to twenty musical works and twenty sound recordings, *i.e.,* forty total works, using the Standard Application if the works were fixed in the same phonorecord and the other regulatory requirements were met.[19] A2IM and RIAA expressed concern over the requirement to use the Standard Application, urging the Office to instead ''create a dedicated GRAM application that runs on the existing system.'' [20] They observed that this approach would ''[n]ot only . . . encourage use of GRAM by smaller, less sophisticated, less frequent users,'' but also would ''lead to fewer telephone inquiries from copyright owners and [would] require less correspondence from registration specialists, both of which will save the Office time and money.'' [21] The Office agrees that decoupling GRAM applications from the Standard Application would greatly simplify the registration process for both applicants and Office staff, and therefore it has worked with the Library's Office of the Chief Information Officer to develop new applications specifically for GRAM that can be accessed and submitted through the electronic registration system (''eCO''). The final rule has been updated to reflect this change.

In the course of developing this functionality, the Office also determined that permitting the registration of both musical works and sound recordings using one application may give rise to complexities in the examination process that could hinder the Office's efficient administration of the group option. For example, in cases where the musical works and sound recordings on an album have different authors, an applicant would be required to list all the authors of both the music and sound recordings, to list the titles of the works created by each author, and to provide an appropriate authorship statement to describe each author's contribution(s) to each work. In the Registration Program's experience, challenges or inaccuracies are likely to arise where the nature of the applicant's authorship differs with respect to the musical work and the sound recording for multiple album tracks. For example, if an author created twenty sound recordings on an album, but wrote only ten of the musical works embodied in those recordings, she would be required to provide titles for all twenty works and exclude from the musical work claim the ten compositions she did not author by listing their titles in the Material Excluded field. Given the number of possible permutations, such requirements would likely lead to ambiguities requiring correspondence with the applicant, as well as potential inaccuracies in the public record, particularly where the applicant is unfamiliar with the distinction between musical works and sound recordings for copyright purposes. Because such correspondence would likely result in additional refusals or a higher fee for this group registration option to accommodate the additional Office resources needed, the Office has determined that it is preferable to create a bifurcated group option.

The final rule accordingly provides for two separate types of applications. An applicant may register up to twenty musical works on an album using the application designated for ''musical works from an album.'' An applicant may register up to twenty sound recordings, as well as any associated literary, pictorial, or graphic works first published with the same album, using the application designated for ''sound recordings from an album.'' The initial version of the application for ''musical works from an album'' will not include an option for registration of these ancillary materials because the Office understands that typically these works are not authored or owned by the party that authored or owns the musical works. To the extent there is a need in the marketplace, however, the Office is open to considering a future update that would permit registration of such materials on the application for ''musical works from an album.'' The Office welcomes public input on whether copyright owners would benefit from such an option.

3. Title Information

The NPRM proposed that an applicant be required to provide a title for the album, a title for each musical work and/or sound recording, titles for any associated literary, pictorial, or graphic works that are included in the group, and a title that identifies the group as a whole, starting with the word ''GRAM.'' [22] Some commenters objected to the requirement to provide a separate title for the group. Among other concerns, they noted that the registration certificate would start with ''GRAM,'' while the album offered for sale would not, causing potential confusion in the public record and in litigation.[23]

In light of these concerns, and because the group-title requirement was necessitated by the limitations of the Standard Application,[24] the Office has eliminated this requirement. Instead, the GRAM applications will include a mandatory field for the title of the album, which will appear on the registration certificate and in the public record. The album title will be used to automatically generate a group title (*e.g.,* ''Works published on the album [ALBUM TITLE]''). The group title and the album title will both appear in the registration certificate and the public record. For applications that include literary, pictorial, or graphic works, the system will automatically generate titles for those works (*e.g.,* ''Liner notes, photograph(s), and/or artwork first published on the album [ALBUM TITLE]''), although the applicant may provide a more specific title for those works by following the instructions given in the help text. The Office will add those titles to the public record when it examines the claim.

4. Collective Work Registration

RIAA and A2IM requested that the Office allow applicants to include the full album as a collective work as one of the works that can be registered on the GRAM application.[25] They noted that some existing group registration options permit registration of both a collective work and the individual component works, citing the unit of publication and group serial options as examples.[26] But these commenters did not explain why they believe there is a need for such an option in the GRAM application given that applicants already have the ability to register both a collective work and the individual works comprising it by filing a collective work claim using the Standard Application. As discussed in the NPRM, a collective work registration will extend to the individual component works if the copyright in those works is held by the owner of the collective work copyright, provided the component works contain sufficient original authorship and have not been

[18] *Id.* at 22765.

[19] *Id.* at 22764.

[20] A2IM & RIAA Comments at 8.

[21] *Id.*

[22] 84 FR at 22766.

[23] A2IM & RIAA Comments at 6; Jesse Morris Comments at 1.

[24] *See* Jesse Morris Comments at 1; A2IM & RIAA Comments at 6.

[25] A2IM & RIAA Comments at 3.

[26] *Id.* at 3–4.

previously published or registered.[27] Thus, where a party seeks to register an album as a collective work in addition to registering the individual sound recordings and/or musical works, it may do so under the existing collective work option. The GRAM option will complement this option by facilitating registration of multiple works in cases where parties own copyrights in multiple individual works on an album but are ineligible for collective work registration—for example, because they are not the owner of the collective work copyright or because the particular selection and arrangement of tracks does not qualify as a collective work. Based on the record at this time, the final rule accordingly does not include this option.

5. Author and Claimant

Under the proposed rule, ''all of the works claimed in the group must have a common author,'' and ''the copyright claimant(s) for each work must be the same person(s) or organization.'' [28] The NPRM explained that ''the claimant may either be (1) the author or co-author of all of the works, or (2) the party that owns all of the exclusive rights that initially belonged to the author or co-authors.'' [29]

NMPA asked the Office to clarify the definition of ''claimant'' for GRAM registration eligibility. Specifically, it expressed concern over the NPRM's statement that ''if the works were created by two or more co-authors, the claimant or co-claimant must own or co-own all of the rights that initially belonged to the co-authors. If a party owns or co-owns the rights that initially belonged to some, but not all, of the co-authors, that party cannot be named as a copyright claimant.'' [30] In NMPA's view, this statement could ''suggest that a claimant who has been assigned rights by a co-author of a work (for example, a music publisher to whom a songwriter who is a co-author of a song has assigned their rights) must have obtained *all* of the rights from *all* of the co-authors of a song.'' [31]

To clarify, the definition of ''claimant'' for purposes of the GRAM option is not intended to differ from the generally applicable definition of that term. Under the Office's regulations, a copyright claimant is either ''(i) [t]he author of a work'' or ''(ii) [a] person or organization that has obtained ownership of all rights under the copyright initially belonging to the author.'' [32] Thus, a publisher that is the transferee of all of the exclusive rights of a joint author of eligible works may be listed as a claimant for purposes of a GRAM application, even if the publisher has not received rights from other joint authors. If, however, only a subset of a joint author's exclusive rights have been transferred to it, the publisher would not qualify as a claimant. While the Office cannot advise as to how this standard may apply to specific types of assignments, whether a given transaction constitutes a transfer of copyright ownership—as distinguished from merely a nonexclusive license—will be governed by the statutory definition of that term.[33]

To the extent NMPA's comment is raising concerns regarding the ''claimant'' definition more generally, the Office notes that any changes to that provision would have implications for a broader range of stakeholders than those affected by the GRAM option. The Office therefore does not believe that this proceeding is the appropriate forum for consideration of such changes, although it is open to considering this question more broadly.[34] As the Office continues development of its next-generation registration system, however, it will continue to explore ways to better accommodate registrations involving jointly owned works, and welcomes input from NMPA and other interested parties. The Office also notes that a third party who is assigned a copyright interest but does not qualify as a claimant for GRAM registration purposes may record its ownership information in the Office's public record.[35] Moreover, as noted above, an author of the work may always be listed as a claimant.

6. Publication Information

Commenting parties did not object to the requirement that a GRAM application must ''specify the date and nation of publication for the album.'' [36] NMPA, however, expressed concern over the requirement that all eligible works in the group be published on the album on the same date, noting that it is common for a song to be published as a single before it is published as part of an album.[37] It suggested that the Office allow previously published works that are later included on an album to be included in a GRAM registration ''to maximize the [GRAM option's] usefulness'' and ''to encourage an accurate public record.'' [38] The Office has amended the final rule to allow for the registration of a musical work or sound recording that was previously published as an individual work only (*e.g.,* as a single), provided that the application includes the statutorily-required date of first publication for each of the works.[39] Applicants should provide this information in the ''Note to Copyright Office'' field in the relevant GRAM application. The certificate of registration will be annotated to reflect the additional publication dates.

In addition, A2IM and RIAA and Jesse Morris separately asked for a clarification in the final rule that previously published or registered works that were later contained on an album may be excluded from the GRAM application claim.[40] These parties were concerned that the inclusion of a previously published single would disqualify the entire album from the GRAM registration option. This was not the intent of the proposed rule. Applicants should disclaim ineligible works by listing the titles of those works in the Material Excluded field.

B. Application Requirements

As discussed, the Office is developing two new online applications specifically for this group option—one application for musical works, and another application for sound recordings and any associated literary, pictorial, or graphic works included with the same album. These applications are currently expected to be implemented into the eCO system this spring by the OCIO. Nevertheless, the availability of the GRAM applications is ultimately dependent on the completion of system development and may be affected by unanticipated delays in that process.

[27] 84 FR at 22763 & n.16 (citing *Compendium (Third)* sec. 509.2; U.S. Copyright Office, *Circular 34: Multiple Works* 2–3).

[28] *Id.* at 22765.

[29] *Id.*

[30] NMPA Comments at 4 (quoting 84 FR at 22765–66).

[31] *Id.*

[32] 37 CFR 202.3(a)(3); *see also Compendium (Third)* sec. 405.1.

[33] *See* 17 U.S.C. 101 (''A 'transfer of copyright ownership' is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.'').

[34] The Office has an open rulemaking proceeding on this provision. *See* Registration of Copyright: Definition of Claimant, 77 FR 29257 (May 17, 2012).

[35] 37 CFR 201.4; *see also Document Recordation: Completing and Submitting Declarations of Ownership in Musical Works,* U.S. Copyright Office, *https://www.copyright.gov/recordation/domw/.*

[36] 84 FR at 22766.

[37] NMPA Comments at 5.

[38] *Id.*

[39] Because the statutory deposit requirements differ based on whether a work is first published within or outside the United States, *see* 17 U.S.C. 408(b), the final rule requires that the nation of publication be the same for all works in the group.

[40] A2IM & RIAA Comments at 7; Jesse Morris Comments at 2.

The Office will issue a public announcement when implementation is complete and this option is available to applicants.

The Office will provide detailed information on group eligibility requirements and instructions on completing the applications on its website, including a video and webinar.

C. Filing Fee

The NPRM provided that the filing fee for the GRAM option would be $55, the fee applicable to claims submitted on the Standard Application. It further noted that the Office had recently proposed to increase the Standard Application fee to $75 and that if that proposal were adopted, the new fee would apply to GRAM claims.[41] Subsequently, the Office submitted a final proposed schedule and analysis of fees to Congress in which it reduced the proposed increase to $65.[42] Based on the comments received in the fee study proceeding, and in light of the Office's inability under the current registration system to charge different prices for different types of works submitted on the Standard Application, at the time its fee study was submitted to Congress, the Office reiterated its recommendation that the GRAM fee be the same as the Standard Application fee.[43]

Following the 120-day statutory period for congressional review,[44] the Office promulgated a final rule implementing the proposed fee schedule.[45] The rule noted the Office's expectation that GRAM registrations would ''require a workflow similar to claims submitted on the Standard Application'' and that commenters in the fee study proceeding generally supported linking the two fees.[46] To avoid potential confusion, the Office did not adopt the GRAM fee as part of that rule, noting that it instead would adopt the fee when it issued a final rule implementing the GRAM option.[47]

Although the Office is now providing standalone applications for GRAM submissions, it continues to believe it is appropriate to charge the same fee as is charged for Standard Application filings. The Office believes that it is reasonable to set the GRAM fee, at least initially, at the same level as previously noted, given the similarities in expected workflow associated with examining these claims and the lack of additional data to support an alternate level. The final rule therefore establishes a $65 fee. Given, however, that the Office now has greater flexibility to adjust fees specifically for this option, it will gather additional data to determine if this amount should be adjusted once this option is implemented.[48] The Office also is open to considering differential price options following implementation of its next-generation registration system.[49]

D. Deposit Requirements

The NPRM noted that ''[t]he deposit requirements for this group registration option will be the same as the requirements that normally apply to claims involving musical works, sound recordings, and associated album material.'' [50] The Office proposed that for GRAM claims that include sound recordings, ''the applicant should submit two physical phonorecords, along with two physical copies of any related album material,'' if the album was published in physical form or in both physical and digital form.[51] ''If the album was published solely in digital form, the applicant may upload a digital phonorecord along with a digital copy of any related album material.'' [52] For GRAM claims that do not include sound recordings, the Office proposed that ''the applicant should submit a complete phonorecord of each musical work being registered'' and a complete copy of any associated literary, pictorial, or graphic works associated with the claim.[53]

A2IM and RIAA requested that ''when the works are available in both physical and digital form the applicant be permitted to select whether to submit a physical or digital deposit,'' reasoning that ''digital copies are much easier and less expensive for record labels to provide than physical ones.'' [54] These deposit requirements, however, are designed to conform to the best edition requirements applicable to these types of works generally.[55] Because musical works published solely on phonorecords are not subject to the best edition requirement, the authors and owners of these works may submit digital phonorecords regardless of how the album was published.[56] Conversely, sound recordings are subject to the best edition requirement, and therefore authors and owners of those works must submit copies in either physical or digital form, depending on how the work was published.[57] It is beyond the scope of this proceeding to consider potential changes to those requirements. The final rule therefore generally retains the NPRM's deposit provisions, with updates to reflect the two new GRAM-specific applications.[58]

As noted in the NPRM, for digital deposits, each work must be contained in a separate electronic file, assembled in an orderly form in one of the acceptable file formats listed on the Office's website, and uploaded as individual electronic files (not .zip files) to the electronic submission system.[59] The NPRM provided that a submission will be considered ''orderly'' if the file name for each work can reasonably be matched with the corresponding title entered on the application so that the examiner can verify that the correct works were uploaded.[60] No party commented on this requirement. The final rule incorporates this requirement into the regulatory text, providing that ''[t]he file name for each work must match the title as submitted on the application.'' This provisions tracks language in the recently issued final rule for group registration of short online literary works,[61] and is intended to avoid potential confusion resulting from inconsistent designations.

[41] 84 FR at 22766.

[42] U.S. Copyright Office, *Proposed Schedule and Analysis of Copyright Fees to Go into Effect in Spring 2020* at 20 (2019), *https://www.copyright.gov/rulemaking/feestudy2018/proposed-fee-schedule.pdf.*

[43] *Id.* at 29.

[44] *See* 17 U.S.C. 708(b)(5).

[45] Copyright Office Fees, 85 FR 9374 (Feb. 19, 2020).

[46] *Id.* at 9380–81.

[47] *Id.*

[48] *See* A2IM & RIAA Comments at 6 (''[W]e would be open to a fee structure whereby some baseline number of tracks (*e.g.,* 20) can be included as part of the basic group registration fee and additional tracks can be included in the same GRAM application for an additional surcharge (*e.g.,* $1–$2 per track for each additional track).'').

[49] *See* Registration Modernization, 85 FR 12704, 12706 (Mar. 3, 2020).

[50] 84 FR at 22767.

[51] *Id.*

[52] *Id.*

[53] *Id.*

[54] A2IM & RIAA Comments at 7.

[55] The Copyright Act authorizes the Register of Copyrights to specify by regulation ''the nature of the copies or phonorecords to be deposited'' with respect to particular administrative classes established for purposes of registration. 17 U.S.C. 408(c)(1); *see also id.* at 408(b) (establishing deposit requirements, ''[e]xcept as provided by sub-section (c)''). For purposes of this group option, the Office has adopted the same deposit requirements applicable to the relevant categories of works under individual applications, in order to avoid affecting the Library's collections policies.

[56] *Id.*

[57] The Copyright Act provides that, in the case of a work first published outside the United States, only one copy or phonorecord is required for deposit. 17 U.S.C. 408(b)(3). The final rule has been updated to reflect this distinction.

[58] As noted, the application for ''musical works from an album'' will not initially permit the registration of ancillary materials. The final rule has been revised to reflect this limitation.

[59] 84 FR at 22767.

[60] *Id.*

[61] *See* 37 CFR 202.4(j)(7).

E. Supplementary Registrations

A supplementary registration is a special type of registration that may be used ''to correct an error in a copyright registration or to amplify the information given in a registration.'' [62] The Office has created multiple versions of a form that may be used to correct or amplify information in registrations made under specified group registration options, but the Office has not yet created a version for a registration of a group of works on an album of music. Therefore, the final rule clarifies that applicants should contact the Office of Registration Policy & Practice to obtain instructions before seeking a supplementary registration involving these types of claims.

This update constitutes a change to a ''rule[] of agency . . . procedure[] or practice.'' [63] It does not ''alter the rights or interests of parties,'' but merely ''alter[s] the manner in which the parties present themselves or their viewpoints to the agency.'' [64] It therefore is not subject to the notice and comment requirements of the Administrative Procedure Act.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 202

Copyright, Preregistration and registration of claims to copyright.

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201 and 202 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Amend § 201.3 by:

■ a. Redesignating paragraphs (c)(9) through (c)(28) as paragraphs (c)(10) through (c)(29), respectively.

■ b. Adding new paragraph (c)(9).

The addition reads as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

* * * * *

(c) * * *

* * * * *

(9) Registration of a group of works on an album 65

* * * * *

PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 3. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

■ 4. Amend § 202.4 by:

■ a. Redesignating paragraphs (k) through (n) as paragraphs (o) through (r), respectively.

■ b. Adding new paragraph (k).

■ c. Adding and reserving new paragraphs (l), (m), and (n).

■ d. Amend the newly redesignated paragraph (r), by removing the words ''or (k)'' and adding in its place the words ''(k), or (o)''.

The addition reads as follows:

§ 202.4 Group registration.

* * * * *

(k) *Group registration of works on an album.* Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that a group of two or more musical works, or two or more sound recordings and any associated literary, pictorial, or graphic works, may be registered with one application, the required deposit, and the filing fee required by § 201.3 of this chapter, if the following conditions are met:

(1) *Eligible works.* (i) All of the works in the group must be contained on the same *album.* For the purposes of this section, an *album* is a single physical or electronic unit of distribution containing at least two musical works and/or sound recordings embodied in a phonorecord, including any associated literary, pictorial, or graphic works distributed with the unit.

(ii) The group may include:

(A) Up to twenty musical works; or

(B) Up to twenty sound recordings and any associated literary, pictorial, or graphic works included with the same album.

(iii) The applicant must provide a title for the album and a title for each musical work or sound recording claimed in the group.

(iv) All of the works in the group must be created by the same author or the works must have a common joint author, and the copyright claimant or co-claimants for each work must all be the same person(s) or organization. The works may be registered as works made for hire if they are identified in the application as such.

(v) As a general rule, all of the works must be first published on the same album, the date and nation of publication for each work must be specified in the application, and the nation of publication for each work must be the same. A musical work or sound recording that was previously published as an individual work only (*e.g.,* as a single) may be included in the claim if the date of first publication for that work is listed separately in the application.

(2) *Application.* If the group consists of sound recordings and, as applicable, any associated literary, pictorial, or graphic works, the applicant must complete and submit the application designated for ''sound recordings from an album.'' If the group consists of musical works, the applicant must complete and submit the application designated for ''musical works from an album.'' The application may be submitted by any of the parties listed in § 202.3(c)(1).

(3) *Deposit.* (i) For claims in works first published in the United States submitted with the application for ''sound recordings from an album,'' the applicant must submit two complete phonorecords containing the best edition of each recording, and two complete copies of any associated literary, pictorial, or graphic works that are included in the group. For claims in works first published outside the United States submitted with this application, the applicant must submit one complete phonorecord of the work either as first published or of the best edition. A phonorecord will be considered complete if it satisfies the requirements set forth in § 202.19(b)(2). The deposit may be submitted in a digital form if the album has been distributed solely in a digital format, and if the requirements set forth in paragraph (k)(3)(iii) of this section have been met.

(ii) For claims submitted with the application for ''musical works from an album,'' the applicant must submit one complete phonorecord of each musical work that is included in the group.

(iii) The deposit may be submitted in a digital form if the following requirements have been met. Each work must be contained in a separate electronic file. The files must be assembled in an orderly form, they must be submitted in one of the electronic formats approved by the Office, and they must be uploaded to the electronic registration system as individual electronic files (not .zip files). The file size for each uploaded file must not exceed 500 megabytes; the files may be compressed to comply with this requirement. The file name for each work must match the title as submitted on the application.

[62] 17 U.S.C. 408(d).

[63] 5 U.S.C. 553(b)(A).

[64] *JEM Broad. Co.* v. *F.C.C.,* 22 F.3d 320, 326 (D.C. Cir. 1994) (internal citation omitted).

(4) *Special relief.* In an exceptional case, the Copyright Office may waive the online filing requirement set forth in paragraph (k)(2) of this section or may grant special relief from the deposit requirement under § 202.20(d), subject to such conditions as the Associate Register of Copyrights and Director of the Office of Registration Policy and Practice may impose on the applicant.

* * * * *

§ 202.6 [Amended]

■ 5. Amend § 202.6(e)(2) by:

■ a. Removing ''or for'' after and adding '','' in its place and adding '', or a group of works published on the same album registered under § 202.4(k),'' after ''§ 202.4(j)''.

Dated: February 11, 2021.

Shira Perlmutter,

Register of Copyrights and Director of the U.S. Copyright Office.

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2021–03533 Filed 2–22–21; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2019–0643; FRL–10018–17–Region 8]

Air Quality State Implementation Plans; Approval and Promulgation of Implementation Plans; Utah; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: On June 1, 2020, the Environmental Protection Agency (EPA) published a rulemaking proposing to approve multiple elements of the infrastructure SIP requirements for the 2015 ozone NAAQS for the State of Utah, while taking no action on three infrastructure elements (85 FR 33052). On September 16, 2020, we published a rulemaking taking final action on the proposal. The final rulemaking incorrectly stated that there were no comments received during the public comment period for the proposed rulemaking (85 FR 57731). One comment, submitted electronically on July 1, 2020, had been received but was inadvertently overlooked in the preparation of the September 16 final rule. In this correction document we will respond to the comment received.

DATES: This rule is effective on February 23, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2019–0643. All documents in the docket are listed at *http://www.regulations.gov.* 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 you may contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kate Gregory, (303) 312–6175, *gregory.kate@epa.gov.* Mail can be directed to the Air and Radiation Division, U.S. EPA, Region 8, Mail-code 8ARD–QP, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

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

I. Response to Comments

Comment

We received one anonymous comment on the proposed rulemaking. The commenter asserts that in stating that hard copy comments would not be accepted,[1] the EPA was attempting to preclude submission of comments by ''post mail,'' without prior public notification or rulemaking, in violation of the Administrative Procedure Act (APA). The commenter cited in particular 5 U.S.C. 553(c): ''After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation.'' The commenter stated that the EPA must re-propose the rule without excluding comments submitted by mail.

The commenter also stated that they submitted a separate comment by postal mail.

Response

The EPA does not agree that the comment method offered was in violation of the APA, or that the comment period was otherwise legally insufficient in any way. The agency did not eliminate the opportunity for public comment, but rather temporarily eliminated one method of transmission of public comment, in light of public health concerns related to the COVID–19 pandemic. We provided notice of that temporary change in the proposed rule published at 85 FR 57731, in full compliance with the APA's ''prior public notification'' requirement. Additionally, the proposed rule describes CAA comment submission requirements:

''The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*'' (This site directs commenters to *regulations.gov* as our preferred method for submitting comments.)

The APA requires agencies to provide an opportunity for public comment, but it does not dictate the form in which comments may be submitted, nor does it preclude agencies from imposing reasonable limitations or structures on comment submissions. Accordingly, the commenter's assertion that the APA required the Agency here to accept comments on this proposal by postal mail is incorrect. In addition, the e-Government Act of 2002 requires agencies to create electronic dockets for rulemakings and make those e-dockets available to the public; the EPA satisfied that requirement in this case by employing the Federal Rulemaking Portal at *regulations.gov* as an option for submitting comments on the proposed rulemaking. Further, the fact that the commenter was successfully able to submit a written comment by electronic means demonstrates that the notice and comment method used did not interfere with the commenter's ability to comment on this action.

As noted, the EPA was not required to accept comments by postal mail in this matter and did not do so. Even if we had chosen to accept a comment submitted by postal mail, the comment that the commenter claimed was submitted by postal mail was not found at the address listed in the proposed rule, or at any of the other agency

[1] In the ''addresses'' section, the proposed rulemaking stated: ''To reduce the risk of COVID–19 transmission, for this action we will not be accepting comments submitted by mail or hand delivery'' (85 FR 33052).

addresses that we checked after receiving the electronically submitted comment. Because the commenter anonymously submitted the electronically submitted comment, contacting the commenter to inquire about location of the comment submitted by mail was not possible.

II. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the 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 April 26, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: February 11, 2021.

Debra Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2021–03252 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0194; FRL–10017–11–Region 3]

Air Plan Approval; West Virginia; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion for the Charleston, West Virginia Area Comprising Kanawha and Putnam Counties

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 West Virginia Department of Environmental Protection (WVDEP) of the State of West Virginia. This revision pertains to West Virginia's plan for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the Charleston Area (comprising Kanawha and Putnam Counties). The EPA is approving these revisions to the West Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on March 25, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2020–0194. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (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 *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Keila M. Pagán-Incle, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2926. Ms. Pagán-Incle can also be reached via electronic mail at *pagan-incle.keila@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 29, 2020 (85 FR 38816), EPA published a notice of proposed rulemaking (NPRM) for the State of West Virginia. In the NPRM, EPA proposed approval of West Virginia's plan for maintaining the 1997 8-hour ozone NAAQS through August 10, 2026, in accordance with CAA section 175A. The formal SIP revision was submitted by WVDEP on December 10, 2019.

II. Summary of SIP Revision and EPA Analysis

On July 11, 2006 (71 FR 39001, effective August 10, 2006), EPA approved a redesignation request (and maintenance plan) from WVDEP for the Charleston Area. Per CAA section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years, and in *South Coast Air Quality Management District* v. *EPA,*[1] the D.C. Circuit held that this requirement cannot be waived for areas, like the Charleston Area, that had been redesignated to attainment for the 1997 8-hour ozone NAAQS prior to revocation and that were designated attainment for the 2008 ozone NAAQS. CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.[2] WVDEP's December 10, 2019 SIP submittal fulfills West Virginia's obligation to submit a second maintenance plan and addresses each of the five necessary elements.

As discussed in the June 29, 2020, NPRM, consistent with longstanding EPA's guidance,[3] areas that meet certain criteria may be eligible to submit a limited maintenance plan (LMP) to satisfy one of the requirements of CAA section 175A. Specifically, states may meet CAA section 175A's requirements to ''provide for maintenance'' by demonstrating that an area's design values[4] are well below the NAAQS and that it has had historical stability attaining the NAAQS. EPA evaluated WVDEP's December 10, 2019 submittal for consistency with all applicable EPA guidance and CAA requirements. EPA found that the submittal met CAA Section 175A and all CAA requirements, and proposed approval of the LMP for the Charleston Area (comprising Kanawha and Putnam Counties) as a revision to the West Virginia SIP. The effect of this action makes certain commitments related to the maintenance of the 1997 8-hour ozone NAAQS federally enforceable as part of the West Virginia SIP.

Other specific requirements of WVDEP's December 10, 2019 submittal and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here.

III. EPA's Response to Comments Received

EPA received three comments on the June 29, 2020 NPRM. All comments received are in the docket for this rulemaking action. A summary of the comments and EPA's responses is provided herein.

Comment 1: The commenter asserts that the LMP should not be approved because of EPA's reliance on the Air Quality Modeling Technical Support Document (TSD) that was developed for EPA's regional transport rulemaking. The commenter contends that: (1) The TSD shows maintenance of the area for three years and not 10 years; (2) the modeling was performed for transport purposes across state lines and not to show maintenance of the NAAQS; (3) the modeling was performed for the 2008 and 2015 ozone NAAQS and not the 1997 ozone NAAQS; (4) the TSD has been ''highly contested'' by environmental groups and that ''other states contend EPA's modeling as flawed;'' and (5) the TSD does not address a recent court decision that threw out EPA's modeling ''because it modeled to the wrong attainment year. . . .'' The commenter asserts that the four specific issues it raises with respect to the modeling means that the TSD is ''flawed, illegal, [and] is being used improperly for the wrong purpose. . . .'' The commenter states that ''EPA must retract its reliance on the modeling for the purposes of this maintenance plan and must find some other way of showing continued maintenance of the 1997 ozone NAAQS.''

Response 1: EPA does not agree with the commenter that the approval of West Virginia's second maintenance plan is not appropriate. The commenter raises concerns about West Virginia and EPA's citation of air quality modeling, but the commenter ignores that EPA's primary basis for finding that West Virginia has provided for maintenance of the 1997 8-hour ozone NAAQS in the Charleston Area is the State's demonstration that the criteria for a limited maintenance plan has been met. See 85 FR 38816, June 29, 2020. Specifically, as stated in the NPRM, for decades EPA has interpreted the provision in CAA section 175A that requires states to ''provide for maintenance'' of the NAAQS to be satisfied where areas demonstrate that design values are and have been stable and well below the NAAQS—*e.g.,* at 85% of the standard, or in this case at or below 0.071 ppm. EPA calls such demonstration a ''limited maintenance plan.''

The modeling cited by the commenter was referenced in West Virginia's submission and as part of EPA's proposed approval as supplementary supporting information, and we do not agree that the commenter's concerns about relying on that modeling are warranted. The commenter contends that the modeling only goes out three years (to 2023) and it needs to go out to 10 years, and therefore may not be relied upon. However, the air quality modeling was only relied upon by EPA to provide additional support to indicate that the area is expected to continue to attain the NAAQS during the relevant period. As noted above, West Virginia primarily met the requirement to demonstrate maintenance of the NAAQS by showing that they met the criteria for a limited maintenance plan, rather than by modeling or projecting emissions inventories out to a future year. We also do not agree that the State is required to demonstrate maintenance for 10 years; CAA section 175A requires the State to demonstrate maintenance through the 20th year after the area is redesignated, which in this case is 2026.

We also disagree with the commenter's contention that because the air quality modeling was performed to analyze the transport of pollution

[1] 882 F.3d 1138 (DC Cir. 2018).

[2] ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

[3] See ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, OAQPS, dated October 6, 1995; and ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' from Lydia Wegman, OAQPS, dated August 9, 2001.

[4] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

across state lines with respect to other ozone NAAQS, it cannot be relied upon in this action. We acknowledge that the air quality modeling at issue was performed as part of EPA's efforts to address interstate transport pollution under CAA section 110(a)(2)(D)(i)(I). However, the purpose of the air quality modeling is fully in keeping with the question of whether West Virginia is expected to maintain the NAAQS. The air quality modeling identifies which air quality monitors in the United States are projected to have problems attaining or maintaining the 2008 and 2015 NAAQS for ozone in 2023. Because the air quality modeling results simply provide projected ozone concentration design values, which are expressed as three-year averages of the annual fourth high 8-hour daily maximum ozone concentrations, the modeling results are useful for analyzing attainment and maintenance of any of the ozone NAAQS that are measured using this averaging time; in this case, the 1997, 2008 and 2015 ozone NAAQS. The only difference between the three standards is stringency. Taking the Charleston Area's most recent certified design value as of the proposal (*i.e.,* for the years 2016–2018), the area's design value was 0.067 parts per million (ppm). What we can discern from this is that the area is meeting the 1997 ozone NAAQS of 0.080 ppm, the 2008 ozone NAAQS of 0.075 ppm, and the 2015 ozone NAAQS of 0.070 ppm. The same principle applies to projected design values from the air quality modeling. In this case, the interstate transport modeling indicated that in 2023, the Charleston Area's design value is projected to be 0.060 ppm, which is again, well below all three standards. The fact that the air quality modeling was performed to indicate whether the area will have problems attaining or maintaining the 2015 ozone NAAQS (*i.e.,* 0.070 ppm) does not make the modeling less useful for determining whether the area will also meet the less stringent revoked 1997 standard (*i.e.,* 0.080 ppm).

The commenter asserts that many groups have criticized EPA's transport modeling, alleging that the agency used improper emissions inventories, incorrect contribution thresholds, wrong modeling years, or that EPA has not accounted for local situations or reductions that occurred after the inventories were established. The commenter also alleges that EPA should not rely on its modeling because it ''fails to stand up to the recent court decisions,'' citing the *Wisconsin* v. *EPA* D.C. Circuit decision.[5] EPA disagrees that the existence of criticisms of the agency's air quality modeling render it unreliable, and we also do not agree that anything in recent court decisions, including *Wisconsin* v. *EPA,* suggests that EPA's air quality modeling is technically flawed. We acknowledge that the source apportionment air quality modeling runs cited by the commenter have been at issue in various legal challenges to EPA actions, including the *Wisconsin* v. *EPA* case. However, in that case, the *only* flaw in EPA's air quality modeling identified by the D.C. Circuit was the fact that its analytic year did not align with the attainment date found in CAA section 181.[6] Contrary to the commenter's suggestion, the D.C. Circuit *upheld* EPA's air quality modeling with respect to the many technical challenges raised by petitioners in the *Wisconsin* case.[7] We therefore think reliance on the interstate transport air quality modeling as supplemental support for showing that the Charleston Area will maintain the 1997 8-hour ozone NAAQS through the end of its 20th-year maintenance period is appropriate.

Comment 2: The commenter asserts that EPA should disapprove this maintenance plan because EPA should not allow states to rely on emission programs such as the Cross-State Air Pollution rule (CSAPR) to demonstrate maintenance for the 1997 ozone NAAQS. The commenter alleges that ''the CSAPR and CSAPR Update and CSAPR Close-out rules were vacated entirely'' by multiple courts and ''are now illegal programs providing no legally enforceable emission reductions to any states formerly covered by the rules.'' The commenter also asserts that nothing restricts ''big coal and gas power plants from emitting way beyond there (sic) restricted amounts.'' The commenter does allow that ''If EPA can show that continued maintenance without these rules is possible for the next 10 years then that would be OK but as the plan stands it relies on these reductions and must be disapproved.''

Response 2: The commenter has misapprehended the factual circumstances regarding these interstate transport rules. Every rule cited by the commenter that achieves emission reductions from electric generating units (EGUs or power plants)—*i.e.,* the Cross-State Air Pollution Rule and the CSAPR Update—remains in place and continues to ensure emission reductions of nitrogen oxides (NO_X) and sulfur dioxide (SO_2). CSAPR began implementation in 2015 (after it was largely upheld by the Supreme Court) and the CSAPR Update began implementation in 2017. The latter rule was remanded to EPA to address the analytic year issues discussed in the prior comment and response, but the rule remains fully in effect. The commenter is correct that the D.C. Circuit vacated the CSAPR close-out, but we note that that rule was only a determination that no further emission reductions were required to address interstate transport obligations for the 2008 ozone NAAQS; the rule did not itself establish any emission reductions. We therefore disagree that the legal status of these rules presents any obstacle to EPA's approval of West Virginia's submission.

Comment 3: EPA also received a third comment, which included some contradictory statements, and much of which is beyond the scope of this action. However, we summarize a few germane points raised by the commenter and respond to them herein. The commenter states that EPA must disapprove the maintenance plan for the Charleston Area because ''this plan does not adequately limit or prevent the harmful effects of ozone formation.'' The commenter also suggests that approving the maintenance plan would allow for more ozone pollution. The commenter raises concerns about the scope of EPA's authority, alleging that EPA's authority is not unlimited, that EPA must take into account health effects from harmful ozone, and that EPA is perhaps not using an ''acceptable methodology'' or the ''best available science.''

Response 3: The NAAQS are standards required by the CAA to be established by EPA. The CAA identifies two types of NAAQS, primary and secondary. Primary NAAQS are air quality standards that ''based on such criteria and allowing an adequate margin of safety, are requisite to protect the public health,'' and secondary NAAQS specify a level of air quality that ''is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.'' CAA 109(b)(1) and (2). In lay terms, primary NAAQS ''provide public health protection, including protecting the health of 'sensitive' populations such as asthmatics, children, and the elderly,'' and secondary NAAQS ''provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and

[5] Wisconsin, 938 F.3d 303 (D.C. Cir. 2019).

[6] Wisconsin, 938 F.3d at 313.

[7] Wisconsin, 938 F.3d at 323–331.

buildings.'' [8] As stated in the NPRM, on July 18, 1997 (62 FR 38856), EPA revised both the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the primary 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. Thus, the primary 1997 8-hour ozone NAAQS sets a threshold that at the time, EPA believed to be protective of public health allowing for an adequate margin of safety.[9] The Charleston Area is meeting every ozone NAAQS, and EPA's approval of West Virginia's plan to continue to maintain the 1997 8-hour ozone NAAQS (as it has since it was redesignated to attainment in 2006) is based on EPA's judgment that the emission limitations in West Virginia's SIP and other federally enforceable measures have been effective at ensuring that the Charleston Area will continue to attain the NAAQS. EPA does not agree that it has exceeded its statutory authority. We also believe that we articulated our methodology for evaluating West Virginia's submission in the proposal, and that we have followed that methodology here in the final action.

IV. Final Action

EPA is approving the 1997 8-hour ozone NAAQS limited maintenance plan for the Charleston Area (comprising Kanawha and Putnam Counties) as a revision to the West Virginia SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because 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, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 26, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action pertaining to West Virginia's limited maintenance plan for the Charleston Area (comprising Kanawha and Putnam Counties) 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, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: February 3, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for ''1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Charleston, West Virginia Area Comprising Kanawha and Putnam Counties'' at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

[8] *https://www.epa.gov/criteria-air-pollutants/naaqs-table.*

[9] The Primary ozone NAAQS has been revised twice since 1997, most recently on October 26, 2015. 80 FR 65292.

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	* *	*	*	
1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Charleston, West Virginia Area Comprising Kanawha and Putnam Counties.	Charleston, West Virginia Area Comprising Kanawha and Putnam Counties.	12/10/2019	2/23/2021, [insert **Federal Register** citation].	

[FR Doc. 2021–02623 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0316; FRL–10018–14–Region 3]

Air Plan Approval; Pennsylvania; 1997 8-Hour Ozone National Ambient Air Quality Standards Second Maintenance Plan for the Scranton-Wilkes-Barre Area

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 Commonwealth of Pennsylvania. This revision pertains to the Commonwealth's plan, submitted by the Pennsylvania Department of Environmental Protection (PADEP), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the ''1997 ozone NAAQS'') in the Scranton-Wilkes-Barre, Pennsylvania area (Scranton-Wilkes-Barre Area). This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on March 25, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2020–0316. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (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 *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2181. Ms. Pino can also be reached via electronic mail at *pino.maria@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On September 3, 2020 (85 FR 54961), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of Pennsylvania's plan for maintaining the 1997 ozone NAAQS in the Scranton-Wilkes-Barre Area through December 19, 2027, in accordance with CAA section 175A. The formal SIP revision was submitted by PADEP on March 10, 2020.

II. Summary of SIP Revision and EPA Analysis

On November 19, 2007 (72 FR 64948, effective December 19, 2007), EPA approved a redesignation request (and maintenance plan) from PADEP for the Scranton-Wilkes-Barre Area. In accordance with section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years, and in *South Coast Air Quality Management District* v. *EPA,*[1] the D.C. Circuit held that this requirement cannot be waived for areas, like the Scranton-Wilkes-Barre Area, that had been redesignated to attainment for the 1997 8-hour ozone NAAQS prior to revocation and that were designated attainment for the 2008 ozone NAAQS. CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.[2] PADEP's March 10, 2020 submittal fulfills Pennsylvania's obligation to submit a second maintenance plan and addresses each of the five necessary elements.

As discussed in the September 3, 2020 NPRM, EPA allows the submittal of a less rigorous, limited maintenance plan (LMP) to meet the CAA section 175A requirements by demonstrating that the area's design value[3] is well below the NAAQS and that the historical stability of the area's air quality levels shows that the area is unlikely to violate the NAAQS in the future. EPA evaluated PADEP's March 10, 2020 submittal for consistency with all applicable EPA guidance and CAA requirements. EPA found that the submittal met CAA section 175A and all CAA requirements, and proposed approval of the LMP for the Scranton-Wilkes-Barre Area as a revision to the Pennsylvania SIP. The effect of this action makes certain commitments related to the maintenance of the 1997 ozone NAAQS Federally enforceable as part of the Pennsylvania SIP.

Other specific requirements of PADEP's March 10, 2020 submittal and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here.

III. EPA's Response to Comments Received

EPA received one comment in support of its proposed approval of PADEP's March 10, 2020 submittal. EPA received no adverse comments on the September 3, 2020 NPRM. Therefore, no response to comments is required.

IV. Final Action

EPA is approving PADEP's second maintenance plan for the Scranton-

[1] 882 F.3d 1138 (D.C. Cir. 2018).

[2] ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

[3] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

Wilkes-Barre Area for the 1997 ozone NAAQS as a revision to the Pennsylvania SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 26, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, approving PADEP's second maintenance plan for the Scranton-Wilkes-Barre Area for the 1997 ozone NAAQS, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 3, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding the entry ''Second Maintenance Plan for the Scranton-Wilkes-Barre 1997 8-Hour Ozone Nonattainment Area'' at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Second Maintenance Plan for the Scranton-Wilke-Barre 1997 8-Hour Ozone Nonattainment Area.	Scranton-Wilkes-Barre Area.	3/10/20	2/23/21, [insert **Federal Register** citation].	Scranton/Wilkes-Barre Area: Lackawanna, Luzerne, Monroe and Wyoming Counties.

* * * * *

[FR Doc. 2021–02618 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0176; FRL–10017–66]

Oxalic Acid; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of oxalic acid on honey and honeycomb. This regulation eliminates the need to establish a maximum permissible level on these commodities for residues of oxalic acid.

DATES: This regulation is effective February 23, 2021. Objections and requests for hearings must be received on or before April 26, 2021, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0176, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

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

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2020–1076 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before April 26, 2021. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2020–0176, by one of the following methods:

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

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

II. Background and Statutory Findings

In the **Federal Register** of September 30, 2020 (85 FR 61682) (FRL–10014–74), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 0E8824) by Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 201W, Princeton, NJ 08540 as an agent for the U.S. Department of Agriculture, Agricultural Research Service (ARS), Bee Research Laboratory, 10300 Baltimore Ave. Bldg. 306, BARC-East, Beltsville, MD 20705. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance in or on honey and honeycomb for residues of oxalic acid dihydrate. That document referenced a summary of the petition prepared by the petitioner, ARS, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C) and (D), which requires

EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'', as well as consider other factors.

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and other non-occupational exposures that occur as a result of use of the pesticide.

III. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by oxalic acid are discussed in this unit.

Oxalic acid is ubiquitous in the environment being found naturally in many plants and vegetables, as well as in honey. Oxalic acid is commonly used as an analytical reagent in textile finishing, in metal, wood, or equipment cleaning, in bleaching straw and leather, in removing paint, varnish, rust, or ink stains, in dye manufacturing, in chemical synthesis, in the paper, ceramics, photographic, and rubber industries, as well as *in vitro* as a blood specimen anticoagulant in veterinary medicine. The available data indicate decreased body weight effects occuring only at high doses. Moreover, based on the literature and due to the lack of adverse effects associated with the long history of use in a number of manufacturing processes and goods, exposure to oxalic acid is unlikely to result in short-term, long-term, prenatal developmental, or mutagenic and/or genotoxic toxicological effects. A full discussion of the literature and background on the toxicological profile of oxalic acid can be found in docket number EPA–HQ–OPP–2020–0176 in the documents titled ''Oxalic Acid. Label Amendment Regarding Use in Beehives with Honey Supers to Control Varroa Mites'' and ''Oxalic Acid. New Use in Beehives to control Varroa mites.''

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

Oxalic acid is ubiquitous in the environment being found naturally in many plants and vegetables, as well as in honey. Available studies and literature indicate that residues in or on honey from the proposed use will be insignificant and indistinguishable from background levels of oxalic acid, and due to the lack of toxicity, exposure is not expected to pose a risk. EPA had also considered the potential for aggregate exposure to oxalic acid residues in food and all other non-occupational exposures, including drinking water (ground and surface) and other pesticide uses in gardens, lawns, and/or buildings (residential and other indoor uses). The proposed use does not change the previous assessment's conclusions about drinking water and residential exposure.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found oxalic acid to share a common mechanism of toxicity with any other substances, and oxalic acid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that oxalic acid does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

VI. Determination of Safety for U.S. Population, Infants and Children

Based on the lack of toxicity and the fact that residues will be below and indistinguishable from naturally occurring oxalic acid, EPA concludes that there is a reasonable certainty that no harm to the general U.S. population or any population subgroup, including infants and children, will result from aggregate exposure when considering dietary exposure and all other non-occupational sources of pesticide exposure. Accordingly, EPA finds that exempting residues of oxalic acid from the requirement of a tolerance will be safe.

VII. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

VIII. Conclusion

Therefore, an exemption is established for residues of oxalic acid in or on honey and honeycomb when applied to beehives.

IX. Statutory and Executive Order Reviews

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

Since tolerances and exemptions that are established on the basis of a petition

under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

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

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

X. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: December 23, 2020.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

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

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

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

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

■ 2. Add § 180.1381 to subpart D to read as follows:

§ 180.1381 Oxalic Acid; exemption from the requirement of a tolerance.

Residues of oxalic acid in or on honey and honeycomb are exempted from the requirement of a tolerance when oxalic acid is used as a miticide in honeybee hives.

[FR Doc. 2021–03256 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 100

RIN 0906–AB24

National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table; Delay of Effective Date

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the Presidential directive as expressed in the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' this action delays until April 23, 2021, the effective date of the rule entitled ''National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table,'' published in the **Federal Register** on January 21, 2021 (January 21, 2021 Final Rule).

DATES: As of February 22, 2021, the effective date of the January 21, 2021 Final Rule, published in the **Federal Register** at 86 FR 6249, is delayed for 60 days, from February 22, 2021 to April 23, 2021.

FOR FURTHER INFORMATION CONTACT: Please visit the National Vaccine Injury Compensation Program's website, *https://www.hrsa.gov/vaccinecompensation/,* or contact Tamara Overby, Acting Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, HRSA, Room 08N146B, 5600 Fishers Lane, Rockville, MD 20857; by email at *vaccinecompensation@hrsa.gov;* or by telephone at (855) 266–2427.

SUPPLEMENTARY INFORMATION:

I. Background

HHS published a notice of proposed rulemaking on July 20, 2020 (85 FR 43794), and a final rule on January 21, 2021 (86 FR 6249). The January 20, 2021 Final Rule amended the provisions of 42 CFR 100.3 by removing Shoulder Injury Related to Vaccine Administration (SIRVA), vasovagal syncope, and Item XVII from the Vaccine Injury Table. The January 20, 2021 memorandum from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' instructed Federal agencies to consider delaying the effective date of rules published in the **Federal Register**, but which have not yet taken effect, for a period of 60 days so that the new Administration may review recently published rules for ''any questions of fact, law, and policy the rule may raise.'' The memorandum notes certain exceptions that do not apply here. On January 20, 2021, the Office of Management and Budget (OMB) also published OMB Memorandum M–21–14, Implementation of Memorandum Concerning Regulatory Freeze Pending Review, which provides guidance regarding the Regulatory Freeze Memorandum. See OMB M–21–14, Implementation of Memorandum Concerning Regulatory Freeze Pending Review, *https://www.whitehouse.gov/wp-content/uploads/2021/01/M-21-14-Regulatory-Review.pdf.* OMB M–21–14 explains that pursuant to the Regulatory Freeze Memorandum, agencies ''should consider postponing the effective dates for 60 days and reopening the rulemaking process'' for ''rules that have not yet taken effect and about which questions involving law, fact, or policy have been raised.'' Id.

On February 12, 2021, HHS published a notice of proposed rulemaking, proposing, after a brief public comment period, to delay the effective date of the January 21, 2021 Final Rule for 60 days, from February 22, 2021, to April 23, 2021. HHS did so to determine whether the January 21, 2021 Final Rule's promulgation raises any legal issues, including but not limited to (1) whether the Advisory Commission on Childhood Vaccines (ACCV) was properly notified of the proposed rule pursuant to 42

U.S.C. 300aa–14(c) and (d), and (2) whether the public was properly notified of the entire revised regulation, 42 CFR 100.3(b)–(e) (including the qualifications and aids to interpretation and the coverage provisions), given that both the proposed and final rules published in the **Federal Register** included only the revised Vaccine Injury Table itself, but not the entire revised regulation.

HHS received 29 comments on the notice of proposed rulemaking, most in support of the delay of the effective date to April 23, 2021, with only two anonymous comments against. After careful consideration of the comments received, HHS has decided to delay the January 21, 2021 Final Rule's effective date to April 23, 2021. HHS continues to believe that the delay is reasonable and will not be disruptive because the underlying rule has not yet been implemented or taken effect.

Section 553(d) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) requires that Federal agencies provide at least 30 days after publication of a final rule in the **Federal Register** before making it effective, unless good cause can be found not to do so. HHS finds that there is good cause for making this final rule effective less than 30 days after publication in the **Federal Register** given that failure to do so would result in the January 21, 2021 Final Rule going into effect before it can be reviewed by the new Administration pursuant to the Regulatory Freeze Memorandum and OMB M–21–14, and because the majority of public comments received support the delay and HHS's plans to more closely review the January 21, 2021 Final Rule's promulgation for both procedural and policy reasons.

II. Analysis and Responses to Public Comments

In the notice of proposed rulemaking, HHS solicited comments regarding whether to delay the January 21, 2021 Final Rule's effective date for 60 days, from February 22, 2021, to April 23, 2021. We received 29 comments. The 27 comments in support of the delay of the effective date of the January 21, 2021 Final Rule to April 23, 2021, were from a broad range of patients, vaccine attorneys and legal clinics, biotech trade associations, pharmacist and drug store associations, and non-profit organizations. HHS only received two anonymous comments opposing the delay of the effective date of the January 21, 2021 Final Rule. HHS took into consideration comments on the underlying rule to the extent they shed light on the reasons commenters were for or against the delay; other comments that raised issues beyond the scope of the proposed rule delaying the effective date are not addressed here, but will be considered by the agency in determining future actions related to the underlying rule. We have summarized the relevant comments received and provided our answers below.

Eight commenters, including the Biotechnology Innovation Organization, American Association for Justice, Walgreens, and the National Association of Chain Drug Stores, support delaying the January 21, 2021 Final Rule because they believe that the rule contravenes the purpose of the National Childhood Vaccine Injury Act. Thirteen commenters, including the National Community Pharmacists Association, the Vaccine Injured Petitioners Bar Association, the American Pharmacists Association, the National Alliance of State Pharmacy Associations, and various petitioners' attorneys, support the delay of the final rule because they believe the final rule did not adequately take into account the recommendations of the ACCV or the public. Four commenters, including a petitioner's attorney, supported the delay so that, pursuant to the Regulatory Freeze memorandum, the new Administration may review the rule and the comments submitted during that rulemaking process. Another commenter expressed concern with the promulgation of the final rule, specifically that the contents of the November 9, 2020 hearing have not been made publicly available, and as such supported the delay. Many commenters who said they had their own SIRVA injuries supported the delay. Finally, four commenters stated that the January 21, 2021 Final Rule contravenes the science surrounding SIRVA. HHS agrees that delaying the effective date of the final rule would provide the agency time to ensure the rule was properly promulgated and consider the other issues surrounding the rule.

Two anonymous commenters opposed the delay of the final rule. One anonymous commenter stated the final rule should go into effect without delay for the reasons stated in the Department of Justice's (DOJ) May 15, 2020 letter. See *https://www.hrsa.gov/sites/default/files/hrsa/advisory-committees/vaccines/hunt-letter-sirva.pdf.* That letter outlines DOJ's views with respect to the July 20, 2020 notice of proposed rulemaking (NPRM) (85 FR 43794), specifically the view that SIRVA should not be a compensable injury under the VICP, but does not discuss why the commenter opposes delaying the effective date of the final rule. As such, HHS is unable to respond to this comment as it does not state why the commenter does not support the delay.

The other anonymous commenter asserted, without indicating the factual basis for the assertion, that the ACCV had been properly notified about the NPRM to remove SIRVA, vasovagal syncope, and Item XVII from the Table. Furthermore, the anonymous commenter pointed out that ''HHS says it needs time to determine whether the ACCV 'was properly notified of the proposed rule pursuant to 42 U.S.C. 300aa–14(c).' 86 FR 9308, 9309 (Feb. 12, 2021) (the notice refers to 42 U.S.C. 300aa–14(c), but presumably it meant to refer to 300aa–14(d).).'' HHS disagrees with this commenter's views about the ACCV and is concerned that the ACCV may not have been properly notified. We also note that 300aa–14(c) discusses the process for promulgating regulations to revise the Table, but agree that section that 300aa–14(d) discusses the role of the ACCV in the regulation process more specifically. That subsection states the ''Secretary may not propose a regulation under subsection (c) or any revision thereof, unless the Secretary has first provided to the Commission a copy of the proposed regulation or revision, requested recommendations and comments by the Commission, and afforded the Commission at least 90 days to make such recommendations.'' [emphasis added] Per the March 6, 2020 ACCV meeting minutes, found at *https://www.hrsa.gov/sites/default/files/hrsa/advisory-committees/vaccines/meetings/2020/accv-march-meeting-minutes.pdf,* ACCV members said during the March meeting that, because the NPRM was marked as ''privileged and confidential'' and was not on the agenda for the meeting, they were uncertain whether they were allowed to discuss the NPRM at the ACCV meeting as a group. The fact that ACCV members were uncertain as to whether the ACCV as a group could discuss the NPRM at that meeting raises the issue about whether the ACCV as a whole actually was provided with the statutorily-required 90 days to provide its comments and recommendations on the NPRM. This sentiment was echoed in the May 18, 2020 meeting minutes, found at *https://www.hrsa.gov/sites/default/files/hrsa/advisory-committees/vaccines/meetings/2020/accv-may-meeting-minutes.pdf,* where, for an example, an ACCV member raised the issue that ''ACCV commissioners received this draft VICP NPRM in February of 2020, at that time commissioners were told it was

privileged, confidential document that could not be discussed. It was not on the agenda for the March 6, 2020 meeting.'' While the member acknowledged a brief discussion did occur, it remains clear that not all ACCV members believed they could discuss the NPRM during the March meeting. In a letter to the Secretary of HHS dated May 20, 2020, with the recommendation to oppose the proposed changes to the Table, the ACCV again expressed dissatisfaction with the ACCV recommendation process, stating, ''During its March 6 Meeting, the Commission briefly discussed this draft NPRM; however, no representative from HHS was present to address questions from ACCV members, and discussion of the draft NPRM was not an agenda item. Therefore, ACCV members requested, among other things, a meeting with an HHS official to respond to their questions about the NPRM. Thus, the May 18, 2020 meeting was scheduled, but an HHS official who could respond to the ACCV's questions did not attend.'' (See *https://www.hrsa.gov/sites/default/files/hrsa/advisory-committees/vaccines/reports/accv-recommendation-may-2020.pdf.*)

That anonymous commenter also stated that the public was made aware of the entire revised regulation, including the qualifications and aids to interpretation and coverage provisions, because ''the NPRM and the Final Rule provide: 'In 100.3, revise paragraph (a) and remove paragraphs (c)(10) and (13) and (e)(8).' 85 FR 43,804; 86 FR 6249, 6267 (Jan. 21, 2021).'' The anonymous commenter said he or she believes it is sufficient to refer solely to the paragraphs being removed, and not spell out the entire revised regulation. However, the final rule says, ''In § 100.3, revise paragraph (a) and remove paragraphs (c)(10) and (13) and (e)(8). The revision reads as follows . . .'' After the ''as follows,'' the only text that is included is the Table itself, and not the revised qualifications and aids to interpretation and coverage provisions. Therefore, the language in the proposed and final rules is ambiguous because it implies that the entirety of the revised regulation is included, but then only includes the Table itself. Furthermore, the version of the Vaccine Injury Table that is currently displayed on the eCFR includes a link titled ''Link to an amendment published at 86 FR 6267, Jan. 21, 2021.'' This link displays only the Vaccine Injury Table that was published in the final rule, and this delay will permit HHS to clarify these seemingly conflicting instructions concerning 42 CFR 100.3(b)–(e).

III. Regulatory Impact Analysis

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that provide the greatest net benefits (including potential economic, environmental, public health, safety, distributive, and equity effects). In addition, under the Regulatory Flexibility Act, if a rule has a significant economic effect on a substantial number of small entities, HHS must specifically consider the economic effect of a rule on small entities and analyze regulatory options that could lessen the impact of the rule.

The Office of Information and Regulatory Affairs has determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866.

HHS has determined that no resources are required to implement the requirements in this rule because compensation will continue to be made consistent with the status quo. Therefore, in accordance with the Regulatory Flexibility Act of 1980 (RFA), and the Small Business Regulatory Enforcement Act of 1996, which amended the RFA, HHS certifies that this rule will not have a significant impact on a substantial number of small entities.

HHS has also determined that this rule does not meet the criteria for a major rule under the Congressional Review Act *or* Executive Order 12866 and would have no major effect on the economy or Federal expenditures. Similarly, it will not have effects on State, local, and tribal governments and on the private sector such as to require consultation under the Unfunded Mandates Reform Act of 1995. Nor on the basis of family well-being will the provisions of this rule affect the following family elements: Family safety; family stability; marital commitment; parental rights in the education, nurture and supervision of their children; family functioning; disposable income or poverty; or the behavior and personal responsibility of youth, as determined under section 654(c) of the Treasury and General Government Appropriations Act of 1999.

Impact of the New Rule

This rule extends the effective date of the final rule titled ''National Vaccine Injury Compensation Program: Revisions to the Vaccine Injury Table'' until April 23, 2021, to determine whether that rule's promulgation raises any legal issues. This delay is reasonable and will not be disruptive because the underlying rule has not yet been implemented or taken effect.

Paperwork Reduction Act of 1995

This rule has no information collection requirements.

Norris Cochran,

Acting Secretary, Department of Health and Human Services.

[FR Doc. 2021–03747 Filed 2–19–21; 11:15 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2021–0003; Internal Agency Docket No. FEMA–8667]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur. Information identifying the current participation status of a community can be obtained from FEMA's CSB available at *www.fema.gov/flood-insurance/work-with-nfip/community-status-book.* Please note that per Revisions to Publication Requirements for Community Eligibility Status Information Under the National Flood Insurance Program, notices such as this one for scheduled suspension will no longer be published in the **Federal Register** as of June 2021 but will be available at National Flood Insurance Community Status and Public Notification | *FEMA.gov.* Individuals without internet access will be able to contact their local floodplain management official and/or State NFIP Coordinating Office directly for assistance.

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

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Adrienne L. Sheldon, PE, CFM, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 674–1087. Details regarding updated publication requirements of community eligibility status information under the NFIP can be found on the CSB section at *www.fema.gov.*

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives, new and substantially improved construction, and development in general from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with NFIP regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date listed in the third column. As of that date, flood insurance will no longer be available in the community. FEMA recognizes communities may adopt and submit the required documentation after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. Their current NFIP participation status can be verified at anytime on the CSB section at *fema.gov*.

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

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region 3				
Pennsylvania: East Buffalo, Township of, Union County.	421011	April 24, 1973, Emerg; February 2, 1977, Reg; February 26, 2021, Susp.	Feb. 26, 2021	Feb. 26, 2021.
Susquehanna, Township of, Juniata County.	421746	June 27, 1975, Emerg; June 1, 1982, Reg; February 26, 2021, Susp.	.....do *	Do.
Virginia: Culpeper, Town of, Culpeper County.	510042	June 16, 1975, Emerg; March 2, 1989, Reg; February 26, 2021, Susp.	.....do	Do.
Culpeper County, Unincorporated Areas.	510041	November 26, 1974, Emerg; July 1, 1987, Reg; February 26, 2021, Susp.	.....do	Do.
Rappahannock County, Unincorporated Areas.	510128	January 7, 1976, Emerg; August 24, 1984, Reg; February 26, 2021, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
Region 4				
Tennessee: Brentwood, City of, Williamson County.	470205	March 23, 1973, Emerg; February 1, 1978, Reg; February 26, 2021, Susp.	.....do	Do.
Cheatham County, Unincorporated Areas.	470026	September 27, 1974, Emerg; May 19, 1981, Reg; February 26, 2021, Susp.	.....do	Do.
Hendersonville, City of, Sumner County.	470186	May 28, 1974, Emerg; November 4, 1981, Reg; February 26, 2021, Susp.	.....do	Do.
Pegram, Town of, Cheatham County.	470291	N/A, Emerg; April 9, 1987, Reg; February 26, 2021, Susp.	.....do	Do.
Pleasant View, Town of, Cheatham County.	470428	N/A, Emerg; August 1, 2011, Reg; February 26, 2021, Susp.	.....do	Do.
Ridgetop, City of, Davidson and Robertson Counties.	470162	N/A, Emerg; March 13, 2009, Reg; February 26, 2021, Susp.	.....do	Do.
Robertson County, Unincorporated Areas.	470158	May 28, 1982, Emerg; June 15, 1984, Reg; February 26, 2021, Susp.	.....do	Do.
Williamson County, Unincorporated Areas.	470204	May 27, 1975, Emerg; April 1, 1981, Reg; February 26, 2021, Susp.	Feb. 26, 2021	Feb. 26, 2021.

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

Eric J. Letvin,

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

[FR Doc. 2021–03223 Filed 2–22–21; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 18–120; FCC 20–183; FRS 17359]

Transforming the 2.5 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Dismissal of petitions for reconsideration.

SUMMARY: In this document, the Federal Communications Commission (Commission) addresses the Petitions for Reconsideration (Petitions) filed by National Congress of American Indians (NCAI) and Schools, Health & Libraries Broadband Coalition and others (SHLB et al.), asking that the Commission reinstate the eligibility restrictions it eliminated in the *2.5 GHz Report and Order,* published on October 25, 2019, and create a window for additional educational use of the band. The Commission dismisses the Petitions in part and, alternatively and independently, denies the other two petitions. The Hawai'i Broadband Initiative filed a Petition for Reconsideration, which it subsequently requested leave to withdraw. The Commission grants Hawai'i Broadband Initiative's request to withdraw its petition.

DATES: The Commission adopted the Order on Reconsideration denying the Petitions for Reconsideration on December 9, 2020.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration (Reconsideration Order), WT Docket No. 18–120; FCC 20–183, adopted on December 9, 2020 and released on December 17, 2020. The full text of the Reconsideration Order is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *https://www.fcc.gov/edocs* or via the FCC's Electronic Comment Filing System (ECFS) website at *http://www.fcc.gov/ecfs.* (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). The *2.5 GHz Report and Order,* WT Docket No. 18–120, FCC 19–62, released July 11, 2019 published at 84 FR 57343 on October 25, 2019.

Synopsis

I. Introduction

1. The 2.5 GHz band (2496–2690 MHz) is the single largest band of contiguous spectrum below 3 gigahertz. Too much of this spectrum, which is prime mid-band spectrum for next generation mobile operations, including 5G, has lain fallow for more than twenty years. In the *2.5 GHz Report and Order,* the Commission transformed the regulatory framework governing the band in order to move this spectrum into the hands of those who will provide service to Americans across the country, and particularly in rural and Tribal areas. The Commission replaced an outdated regulatory regime, developed in the days when educational TV was the only use envisioned for this spectrum, with one that not only gives incumbent users more flexibility in how they use the spectrum, but also provides opportunities for additional entities to obtain access to unused 2.5 GHz spectrum. Among other things, the Commission established a Tribal Priority Window to address the acute problem of lack of access to wireless communications services in rural Tribal areas, and it decided to hold an overlay auction thereafter for remaining unassigned spectrum rights.

2. Three parties sought reconsideration of various aspects of the order. The National Congress of American Indians (NCAI) seeks reconsideration of the Commission's decision to focus the Tribal Priority Window opportunity on rural Tribal land. The Schools, Health & Libraries Broadband Coalition and others (SHLB et al.), meanwhile, ask that the Commission reinstate the eligibility restrictions the Commission eliminated in the *2.5 GHz Report and Order* and create a window for additional educational use of the band And the

Hawai'i Broadband Initiative filed a Petition for Reconsideration, which it subsequently requested leave to withdraw.

3. The Commission grants the Hawai'i Broadband Initiative's request to withdraw its petition, and the Commission dismisses in part and, alternatively and independently, denies the other two petitions. In doing so, the Commission affirms the framework it adopted to make available the 2.5 GHz band quickly by eliminating outdated legacy regulations that inhibited full use of the band and establishing flexible-use rules that will allow commercial providers to use this large swath of prime mid-band spectrum to provide 5G and other advanced services to American consumers.

II. Background

4. The Commission established a Tribal Priority Window to address the acute problem of lack of access to wireless communications services in rural Tribal areas. The Tribal Priority Window represents a particularly important and unprecedented opportunity to address the communications needs of rural Tribal communities, many of which lack meaningful access to wired and wireless communications services. Successful applicants in the Tribal Priority Window will be able to acquire licenses for all available 2.5 GHz spectrum over their rural Tribal lands—for free, which should afford sufficient bandwidth to offer broadband wireless service to these communities.

5. The Commission established criteria for the Tribal Priority Window that would ''provide the most effective and targeted way to achieve the Commission's goal of closing the digital divide in Tribal lands.'' Specifically, the Commission included four basic requirements for Tribes and Tribal entities seeking to take advantage of the Tribal Priority Window: (1) Eligibility is limited to federally recognized American Indian Tribes and Alaska Native Villages or entities owned and controlled by federally recognized Tribes or a consortium of such Tribes: (2) the license must be for Tribal land, as defined in part 54 of the Commission's rules; (3) the geographic service area requested must be rural, meaning not part of an urbanized area or urban cluster area with a population equal to or greater than 50,000; and (4) the eligible Tribal entity must have a local presence on the rural Tribal land for which it is applying.[1]

6. The Commission observed that, ''[b]ecause the problem of access to wireless communications services is most acute in rural areas . . . the purpose of the Tribal priority window should be to promote service to areas that are currently unserved or underserved.'' The Commission previously has reported that ''the population of individuals living on Tribal lands is disproportionately skewed toward rural, rather than urban, areas.'' As the Commission found in the *2.5 GHz Report and Order,* ''individualized policies tailored to specific deployment issues, such as increasing access to spectrum over unserved rural Tribal areas,'' honored the Commission's trust relationship with Tribal Nations. As such, the Commission established the Tribal Priority Window for *rural* Tribal lands that ''are not part of an urbanized area or urban cluster area with a population equal to or greater than 50,000.''

7. Tribal land for purposes of the Tribal Priority Window consists of: Any federally recognized Indian Tribe's reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) and Indian Allotments, see § 54.400(e), as well as Hawaiian Home Lands—areas held in trust for native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920, July 9, 1921, 42 Stat 108, *et seq.,* as amended; and any lands designated prior to July 10, 2019, as Tribal Lands pursuant to the designation process contained in § 54.412.

8. As explained in the *2.5 GHz Report and Order,* the Commission adopted the same general definition of Tribal land as set forth in part 54 of its rules related to the Universal Service Fund. In addition to ''on-reservation'' lands, the Commission also included off-reservation Tribal lands as eligible for the Tribal Priority Window if they were designated as Tribal lands prior to July 10, 2019 pursuant to the process set forth in § 54.412 of its rules.

9. After the Tribal Priority Window closes, any remaining unassigned 2.5 GHz spectrum will be made available for commercial use via competitive bidding, as the Commission found this to be the best way to assign spectrum quickly and efficiently for its highest-valued use. In seeking to modernize the 2.5 GHz band and make this valuable spectrum available expeditiously for a wide range of consumer uses, the Commission also determined that the original motivations for adopting restrictions on Educational Broadband Service (EBS) licenses were now obsolete. In the *2.5 GHz Report and Order,* the Commission explained: ''The circumstances that led to the creation of a dedicated educational service no longer exist. Substantial technological changes over the last 30 years enable any educator with a broadband connection to access a myriad of educational resources—a content distribution model that does not require dedicated educational spectrum licensed to educational institutions. . . . [T]oday there are a multiplicity of other sources of educational programming available to institutions with broadband connections. All of these factors support eliminating the eligibility restrictions at this time.''

10. Meanwhile, only a handful of EBS licensees have deployed their own networks or use their EBS licenses in a way that requires dedicated spectrum. Instead, most licensees rely on lessees to deploy and operate broadband networks using their licensed spectrum, and they use the leases as a source for revenues or devices. In considering the arguments surrounding the former EBS eligibility restrictions, the Commission determined that its elimination would promote more efficient use of the spectrum, improve operators' ability to attract capital, make the spectrum more appealing for commercial operators to include in their long-term service plans, and better align these licenses with the flexible-use licensing policies used in similar spectrum bands. Based on the record, the Commission found that eliminating long-standing, but obsolete, eligibility restrictions on EBS licenses was the best way of ensuring that the band could be fully used for high-speed broadband services.

11. For similar reasons, the Commission declined to establish a priority window for educational institutions. In the *2.5 GHz Report and Order,* the Commission explained that an educational priority window ''would be at odds with its other decisions to provide greater flexibility for more providers to make use of the 2.5 GHz band to offer high-speed broadband service to the public.'' An educational priority window raised the additional complication that mutually exclusive applications for licenses sought through such a window would need to be resolved through a system of competitive bidding, and that educational institutions in a majority of

[1] Licenses obtained in the Tribal Priority Window will operate as overlay licenses subject to protecting incumbent operations within the relevant geographic area.

states would likely be precluded from participating in such a process.[2]

12. In its petition, NCAI supports the Commission's decision to establish a Tribal Priority Window but asks that the Commission: (1) allow non-rural Tribal lands to be eligible in the Tribal Priority Window, and (2) revise the applicable rules for defining eligible Tribal lands. SHLB et al. ask that the Commission reconsider its decisions to eliminate the educational eligibility restrictions and to not create an educational priority window.

13. The Tribal Priority Window commenced on February 3, 2020 and lasted until September 2, 2020. In the *Bureau Procedures Public Notice (PN),* PN 35 FCC Rcd 308, the Wireless Telecommunications Bureau specified a simplified application process to allow for the inclusion of any waiver request(s) as part of a specific application—including a waiver of the Tribal land definition as applied in the Report and Order. A number of Tribes have filed applications availing themselves of this waiver mechanism to seek licenses for lands falling outside the § 27.1204(b)(2) definition following release of the *Bureau Procedures PN.*[3]

III. Discussion

14. It is well established that reconsideration ''will not be granted merely for the purpose of again debating matters on which the tribunal has once deliberated and spoken.'' Petitions for reconsideration that rely on arguments that have been fully considered and rejected by the Commission may be dismissed or denied. Both the NCAI and SHLB et al. petitions primarily repeat arguments that the Commission considered and rejected previously. The Commission fully considered the policy benefits of focusing on rural Tribal lands in the *2.5 GHz Report and Order.* And the Commission adopted the definition of Tribal lands contained in its part 54 rules. To the extent NCAI's petition reiterates already rejected arguments, it is procedurally improper, and the Commission dismisses the petition and otherwise deny it in its entirety.

15. Regarding the SHLB et al. Petition, the Commission previously fully considered all the arguments raised therein, including whether an educational window or flexible use would be the best means of promoting broadband deployment, the likelihood of mutually exclusive applications if the Commission opened an educational window, and the distinctions between the Tribal Priority Window and any educational window. Since the petition merely repeats previously raised and rejected arguments, the petition is procedurally improper and dismissed. As a separate and independent ground for rejecting this argument, the Commission finds that in any event it lacks merit. SHLB et al. present no compelling argument that warrants reconsideration of the Commission's decision to make this spectrum available for flexible use nor to limit any priority application window to Tribal entities.

16. In short, the Commission dismisses in part and denies both petitions for reconsideration. The Commission discusses each issue raised by the petitions in turn.

17. *First,* the Commission finds that the NCAI petition provides no new facts or arguments that would provide a basis for reconsidering its decision to focus the Tribal Priority Window on *rural* but not other Tribal lands. In its comments, NCAI claimed that limiting the Tribal Priority Window, *inter alia,* would ''create separate classes of tribal governments, which is inconsistent with the intent of Congress.'' NCAI now repeats its argument that the trust relationship between federally recognized tribes and the Federal government ''applies equally to *all* federally recognized tribal nations, not just to certain sub-sets of tribal nations based on location of tribal lands.'' In other words, it repeats the same argument that the Commission already rejected. And for good reason. NCAI has failed to demonstrate that the Commission, in affording Tribes in this window an opportunity to obtain spectrum licenses over their rural Tribal lands, has failed to uphold any specific trust responsibility expressed by Congress. In contrast, the Commission does have a statutory responsibility to manage the radio spectrum and Congress has exhorted us to speed the deployment of broadband to all Americans in a reasonable and timely manner. In managing this important mid-band spectrum, the Commission continues to believe that an approach of targeting rural Tribal lands for the Tribal Priority Window, where the problem of access to wireless communications services is most acute,[4] and subsequently offering overlay licenses for any remaining unassigned spectrum via a competitive bidding process is the most effective way to make this spectrum available for next generation wireless services. The Commission carefully considered how to make this spectrum available quickly to those able to deploy service, and determined that, while spectrum over urban areas should be made available via competitive bidding, the Commission would first make spectrum available over rural Tribal Lands for free to Tribal entities to help them meet the communications needs of these rural areas without the delay and cost of engaging in competitive bidding.

18. Although NCAI claims that limiting rural lands to areas ''not part of an urbanized area or urban cluster area with a population equal to or greater than 50,000'' was arbitrary and prevents Tribes from serving more populated portions of their lands, focusing this spectrum opportunity on rural Tribal Lands is in furtherance of a specific policy goal of lowering the cost for Tribes to serve the unserved. Indeed, NCAI fails to explain its claim that the Commission's choice is unsupported. Further, NCAI does not offer a single example of a Tribe whose ability to

[2] *2.5 GHz Report and Order,* 34 FCC Rcd at 5469–70, paras. 67–68; *see id.* at 5471, para. 73 (concluding that ''a Tribal priority window is less likely to trigger mutual exclusivity in a significant number of license areas than a priority window for educational institutions'' because ''most rural Tribal lands areas will likely be associated with a single Tribal entity, whereas many localities have a wide variety of educational institutions that could have a local presence'').

SHLB et al. argue that the Commission failed to address the use of a settlement window to resolve mutual exclusive applications. To the contrary, the Commission rejected the use of a settlement window, along with all the other alternatives suggested by the parties as possible means of avoiding mutual exclusivity, because it would not comply with the public interest test of section 309(j)(6)(E) the Communications Act of 1934. *See 2.5 GHz Report and Order,* 34 FCC Rcd at 5470, para. 68 & n.195; *id.* at 5470, para. 68 (rejecting all suggested alternatives to avoid mutual exclusivity, including, but not limited to, the examples listed in the text, as ''inconsistent either with the Communications Act's requirement that the Commission use competitive bidding to resolve mutually exclusive applications or with the public interest test applicable to alternatives that avoid mutual exclusivity.'').

[3] *See, e.g.,* File Nos. 0009056169 (Stockbridge Munsee Community), 0009133181 (Confederated Tribes of the Chehalis Reservation), 0009164208 (Duckwater Shoshone Tribe). Under the Commission's rules, waivers will be granted if it is shown that: (i) The underlying purpose of the rules(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.

[4] *See 2.5 GHz Report and Order,* 34 FCC Rcd at 5466, para. 56; *see also Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,* 2020 Broadband Progress Report, 35 FCC Rcd 8986, 9013, para. 47 (2020) (''Rural Tribal lands continue to lag behind urban Tribal lands, with only 52.9% of all Tribal lands in rural areas having deployment of both [fixed and mobile broadband] services, as compared to 93.1% of Tribal lands in urban areas.'').

serve its Tribal lands is hampered by the limitation. NCAI's argument overlooks the fact that the underlying purpose of the Tribal Priority Window is ''to address the communications needs of their communities and of residents on rural Tribal lands, including the deployment of advanced wireless services to unserved or underserved areas.'' Focusing the Tribal Priority Window opportunity on rural Tribal lands not only satisfied this policy objective but also makes sense from a licensing perspective, as most of the spectrum over urban Tribal lands already is assigned and thus unavailable for licensing as part of the Window.[5]

19. Moreover, the Commission regularly distinguishes between rural and non-rural areas in carrying out policy objectives—in its universal service rules, in its competition rules, and even in its spectrum-bidding rules[6]—because the wide geographies and dispersed populations in rural areas merit a different policy response than the challenges faced in non-rural areas. The Commission has never before suggested that such differentiation impugns the sovereignty of the states nor its trust responsibilities to Tribes, and (as the Commission noted in the *2.5 GHz Report and Order*) the Commission fails to see how such differentiation here could have such effects. The Commission also notes that its definition of what land would be considered ''rural'' is both administrable and objective—not something that requires us to make discretionary judgments about individual Tribes.

20. And to the extent that NCAI thinks this decision contravenes the Commission's 2000 *Tribal Policy Statement (*65 FR 41668), the Commission disagrees. There the Commission committed to working with Tribes ''to ensure, through its regulations and policy initiatives, and consistent with section 1 of the Communications Act of 1934, that Indian Tribes have adequate access to communications services.'' Making spectrum available over rural Tribal lands in the Tribal Priority Window before making remaining unassigned spectrum available via competitive bidding does exactly that; NCAI fails to show otherwise.

21. *Second,* the Commission declines NCAI's request to use the Commission's definition of Tribal lands contained in its part 73 rules in lieu of the definition based on part 54. NCAI has not convinced us that the part 73 definition of Tribal lands (which includes off reservation trust lands) is more appropriate in this context than the part 54 definition.[7] The part 73 definition was adopted for a completely different purpose than the Tribal Priority Window: *i.e.,* to permit comparison between non-commercial educators applying for broadcast stations. By contrast, the Tribal Priority Window was adopted to encourage the provision of necessary communications services in rural areas and to provide federally recognized Tribes with direct access to unassigned 2.5 GHz spectrum over their *own* Tribal lands before making any remaining unassigned spectrum available to any eligible provider via competitive bidding. The Commission required the direct participation of Tribal governments, or entities owned and controlled by such Tribes, in the 2.5 GHz context to ensure that licensees would have the requisite authority over the deployment of facilities and service on their rural Tribal lands.

22. The Commission nonetheless recognized that there may be exceptions to the general rule. That's why case-by-case waivers are available, effectively allowing for a result similar to designation of off-reservation lands in the specific context of applying for unassigned 2.5 GHz spectrum. Indeed, the Commission has received a number of waiver requests during the Tribal Priority Window to include certain off-reservation lands as Tribal lands. And this approach mirrors the Commission's approach in the context of spectrum auctions, excluding off-reservation lands from the definition of ''Tribal lands,'' requiring a winning bidder to provide a certification from a Tribal government in order to receive Tribal land bidding credits and entertaining waivers to include off-reservation lands within the scope of such bidding credits.

23. *Third,* the Commission rejects NCAI's request to re-open the off-reservation designation process in § 54.412 of the Commission's rules. Contrary to NCAI's claim, the Commission already addressed this issue by creating a waiver process that applicants can take advantage of to the extent they seek to include additional off-reservation lands as part of their applications. This case-by-case waiver process is not dissimilar from the designation procedure provided for in part 54. In circumstances where Tribes can show good cause to include as eligible off-reservation lands specifically for purposes of participation in the Tribal Priority Window, the waiver process provides an opportunity for them to do so. That waiver process was made part of the application procedures to allow Tribes to seek eligibility for off-reservation lands without delaying the Tribal Priority Window or unreasonably limiting the ability of Tribes to apply for this spectrum. More than 50 such waivers were filed in the Tribal Priority Window, which closed on September 2, 2020.

24. The Commission is not legally required to, and it sees no benefit in, reopening and starting anew a different process that would not only require Tribes to make additional filings but also delay the processing of all applications already filed during the Tribal Priority Window, including applications of those Tribes who properly sought eligibility for such off-reservation lands using the waiver process available to them in the Tribal Priority Window.

25. *Fourth,* SHLB et al.'s suggestion that, were the Commission to maintain eligibility restrictions and adopt a separate priority window, most new educational licensees would choose to deploy their own networks, belies strong evidence in the record to the contrary. The Commission disagreed with this perspective in the *2.5 GHz Report and Order.*

26. To start, the vast majority of existing licensees, including in rural areas, have not deployed their own networks but instead lease to commercial providers. As of May 13, 2019, there were 2,087 active leases of EBS spectrum, compared with 2,193

[5] Interested parties can use the 2.5 GHz Rural Tribal Priority Window mapping tool, available at *https://www.fcc.gov/rural-tribal-window-updates,* to see where eligible Tribal lands are located, which reservations contain urban lands, and where 2.5 GHz spectrum is licensed.

[6] *See, e.g.,* 47 CFR part 54, subpart G (Universal Service for Rural Health Care Program); 47 CFR 1.2110(f)(4) (rural service provider bidding credit); *Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services,* notice of proposed rulemaking, 85 FR 472, January 6, 2020, 34 FCC Rcd 11290, 11304–05 (2019) (proposing differing regulatory treatment depending on whether an area is a rural or not).

[7] The Commission adopted the definition of ''Tribal lands'' almost verbatim from the part 54 universal service rules. *Compare* 47 CFR 27.1204(b)(2), *with id.* § 54.5, *and id.* § 54.400(e). Although the Commission has extended ''Tribal lands'' in the universal service context to include certain off-reservation lands, the Commission notes that the Lifeline and high-cost programs serve a different purpose than the Tribal Priority Window—*i.e.,* those programs award funding ''for the provision, maintenance, and upgrading of facilities and services.'' In other words, when targeting universal service funds, the Commission increases funding for rural Tribal areas because they (and off-reservation lands) face similar broadband deployment and adoption challenges. In contrast, the Tribal Priority Window is designed to provide federally recognized Tribes with direct access to spectrum over their own Tribal lands—as such, a narrower initial definition accompanied by a waiver process that contemplates possible expansion of Tribal lands in special circumstances is more appropriate.

licenses. In fact, SHLB et al.'s assertion that ''the record is replete with examples of EBS licensees offering service'' qualifies that assertion by acknowledging that they are offering service ''through the EBS leasing model.'' This ''EBS leasing model'' is not an example of EBS licensees providing service, but of EBS licensees merely leasing spectrum to a commercial provider; that the vast majority of EBS licensees chose to lease spectrum rather than use the spectrum to provide service is one of the very reasons the Commission concluded that liberating this spectrum and making it readily available for flexible use by providers—rather than engage in a delayed process that put the spectrum in the hands of hundreds of entities, with each of whom the service provider must negotiate a lease—was in the public interest.

27. In fact, the instances that SHLB et al. identify where EBS licensees deployed their own networks are notable because of how rare they are. For example, SHLB et al. cite the self-deployment undertaken by Northern Michigan University (NMU), under a waiver of the EBS filing freeze. In granting the waiver, however, the Bureau noted: ''NMU is unique among EBS licensees—while most EBS licensees have not built their own facilities and have leased their spectrum to commercial providers, NMU has built and operates its own LTE broadband network that covers a significant portion of the rugged, underserved territory in Michigan's Upper Peninsula.'' Although SHLB et al. state that the Commission has granted seven waivers in the last six years to ''allow[ ] educational entities access to EBS spectrum for the purpose of building wireless networks,'' these seven waivers cover only three entities (*i.e.,* NMU, Kings County, CA, and Monterey County, CA), which further demonstrates the rarity of self-deployed systems. SHLB et al. also point to the interest in developing statewide broadband networks expressed by states such as Nebraska and Utah, but they fail to explain how such interest will result in actual deployment, given that much of the spectrum in more populated areas of those states is already licensed and used by commercial providers, in contrast with northern Michigan where the spectrum was mostly unassigned. In short, although NMU has shown itself to be a motivated educational institution with access to technical expertise, the Commission would expect most EBS licensees to act consistently with their behavior to date and lease spectrum to commercial providers if the Commission retained the former eligibility rules.

28. In short, the Commission finds little support for the argument that educators are better positioned to deploy their own broadband networks in areas that are not served by commercial operators. Even in rural areas, that simply has not been the case. For example, the Wireless internet Service Providers Association (WISPA) explains that several WISPs ''have acquired EBS spectrum lease rights . . . to improve service to subscribers and/or expand service to new areas, in many cases to rural communities'' and lists examples of these WISPs. WISPA further argues that ''WISPs have shown time and again that they can deploy licensed, lightly licensed, and unlicensed fixed wireless services in rural areas—and do so cost-efficiently with unencumbered access to licensed 2.5 GHz spectrum.'' And SHLB et al. demonstrate the success of commercial operators (rather than educational institutions) in building out this spectrum: ''WISPs like BeamSpeed, LLC, Evertek, Inc., Redzone Wireless, Rise Broadband, SiouxLan Communications, and Watch Communications have 'invested many millions of dollars' in networks that 'utilize leased [EBS] spectrum to provide high-quality, competitive broadband services to consumers, often in more rural areas of the United States where broadband options are limited.' '' SoniqWave Networks LLC also intends to participate in the upcoming auction and is planning deployments using spectrum it has acquired in the secondary market from former EBS licensees.

29. In sum, SHLB et al. have failed to present any new facts or arguments that would cause us to change the Commission's conclusion that the best approach to accelerate deployment and enable a wide range of potential uses for consumers nationwide is to license this spectrum for flexible use and eliminate the transaction costs (both money and time) associated with leasing by educational institutions.[8]

30. *Fifth,* the Commission rejects SHLB et al.'s continued reliance on a flawed study in support of maintaining the eligibility requirements. The Commission previously found this study to be premised on an unrealistic deployment model. Not only did the Commission find that history and experience discredit the study's assumption that, in unserved rural areas, EBS licensees would self-deploy rather than seek to enter into a lease agreement with a commercial carrier; the Commission also found problems with the study's assumption that, in rural served areas, licensees would be able to provide broadband service at $15/month.[9] Further, the Commission notes that, while the Catholic Technology Network (CTN) and National Educational Broadband Service Association (NEBSA) supported the existing eligibility requirements, they did not view the proposal around which the SHLB Economic Study was based as workable. Finally, the Commission found the study to undervalue the potential benefits of an auction rather than a direct assignment to educational and/or tribal entities on numerous counts.[10] Generation of revenue is not

[8] SHLB et al.'s argument that EBS licensees should be given additional access to free 2.5 GHz spectrum in a priority window because E-Rate funding cannot be used to support off-campus or home use of E-Rate supported infrastructure (SHLB et al. Petition at 5) is unpersuasive; this fact is not new. *See* 47 U.S.C. 254(h)(1)(B), (h)(2). SHLB's argument ignores the fact that this statutory restriction was in place when the vast majority of EBS licensees chose to lease the spectrum, rather than self-deploy networks.

[9] SHLB et al. claim that the Commission wrongly characterize the SHLB Economic Study as assuming a $15/month price for both served and unserved areas. SHLB et al. Petition at 7–8. The Commission recognizes that the $15/month price applies only to the served areas and that the price is assumed to be $35/month in the unserved areas. The Commission finds it unrealistic, however, that educational providers could sustain service to *rural* areas at the $15/month price. The Commission found no evidence in the record of such low prices except in the case of Mobile Citizen and Mobile Beacon, which have leases with Sprint for spectrum licenses in ''major and more densely populated markets.'' Furthermore, the Commission finds that the $35/month price in unserved rural areas would be unrealistic because it assumes that educational providers would self-deploy in those areas, which is contrary to the Commission's history and experience with the 2.5 GHz band. History has shown that the vast majority of EBS licensees simply do not provide service—at any price—but, instead, lease the spectrum. The Commission is unpersuaded that repeating history will provide a different result.

[10] The SHLB et al. claim that the Commission mischaracterizes the SHLB Economic Study as purely county-based. While the Commission recognizes that the deployment model of the educational license holders is not county-based, its concern is that the SHLB Economic Study assumes that for winners of a potential auction, the ''commercial deployment model only considers deployment to entire counties.'' This is because the SHLB Economic Study rules out any deployment to a county with partial deployment or change in plan offerings by non-educational providers, which the Commission finds unreasonable. The SHLB et al. also claim that the Commission's belief in the potential for price reduction after the auction via cost reduction is misguided because ''competitive dynamics are the key driver of reduced wireless prices.'' While competition is an important determinant of wireless prices, the Commission has also recognized the roles of costs. For example, the Commission recognized substantial cost reductions from spectrum combinations in the T-Mobile/Sprint transaction that would allow lower prices. However, the Commission does not assert that cost

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the only measure of value of an auction;[11] society benefits when spectrum available for flexible use for next-generation wireless services and assigned to those who are most likely to use it themselves to deploy. The Commission therefore finds that making the remaining unassigned spectrum available via competitive bidding is in the public interest and is more likely to expeditiously put this spectrum to its highest and best use for the benefit of all Americans.

31. *Sixth,* the Commission previously stated its reasons for establishing the Tribal Priority Window but not a broad window for educational institutions. Specifically, the Commission concluded that Tribes have an interest in obtaining access to 2.5 GHz spectrum to serve their rural Tribal lands that is greater than and distinct from that of educational institutions, based on: (1) The unique status of federally recognized Tribes and the nature of the Commission's federal trust responsibility, (2) the right of Tribes to set their own communications policies in the lands they govern, (3) the unique and significant obstacles to offering service in Tribal areas, and (4) the fact that Tribes have not previously had access to this spectrum. The SHLB et al. fail to address these distinctions.[12]

32. In turn, the Commission finds that SHLB et al.'s advocacy for a narrower educational priority window analogous to the Tribal Priority Window, or an educational priority window limited to New Channel Group 3 (old Channels G1, G2, and G3), would not address the Commission stated deployment objectives. The Tribal Priority Window is readily distinguishable from any form of educator window. Moreover, their suggestion of creating an educational priority window limited to New Channel Group 3, comprised of 17.5 megahertz of spectrum, would not only suffer from the same concerns the Commission has previously identified, but also would result in inefficient allocation of mid-band spectrum. Under that proposal, only the 17.5 megahertz of non-contiguous spectrum in New Channel Group 3 would be assigned and licensed differently than the adjacent commercial Broadband Radio Service spectrum. The result would be that educators would end up only with a narrow spectrum band that they might not be able to use fully because of the need to protect adjacent channel commercial operations. In contrast, in the auction context, potential bidders can take into consideration the availability of and ability to aggregate spectrum to make the best use of this smaller Channel Group.

33. For these reasons, the Commission affirms its conclusion in the *2.5 GHz Report and Order* that, ''[g]iven the time and effort and delay that would be involved in establishing and running [an educational] priority window, and the likelihood that such a window for all educational institutions would result in having to auction the spectrum anyway, the Commission finds that moving directly to flexible use and open eligibility would be the most expeditious method of making spectrum available to provide broadband service in rural and underserved areas, consistent with the Commission's statutory objective to ensure 'the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays.' '' The Commission therefore denies the SHLB et al. Petition.

IV. Ordering Clauses

34. Accordingly, *it is ordered* pursuant to sections 4(i), 4(j), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), and 309(j), as well as § 1.429 of the Commission's rules, 47 CFR 1.429, that the Petitions for Reconsideration filed by the National Congress of American Indians and jointly by the Schools, Health & Libraries Broadband Coalition; Consortium for School Networking; State Educational Technology Directors Association; American Library Association; National Digital Inclusion Alliance; Nebraska Department of Education; Utah Education and Telehealth Network; Council of Chief State School Officers; A Better Wireless; and Access Humboldt on November 25, 2019, *are dismissed* to the extent specified in this Order on Reconsideration and, alternatively and independently, *denied* as specified herein.

35. *It is further ordered*, pursuant to section 405 of the Communications Act of 1934, as amended, and § 1.429 of the Commission's rules, 47 CFR 1.429, that the Request for Withdrawal of Petition for Reconsideration filed by the Hawaii Broadband Initiative on March 30, 2020, *is granted*, and the Petition for Reconsideration by the Hawaii Broadband Initiative on November 25, 2019, *is dismissed*.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

Editorial note: This document was received for publication by the Office of the Federal Register on January 4, 2021.

[FR Doc. 2021–00051 Filed 2–22–21; 8:45 am]

BILLING CODE 6712–01–P

''primarily'' determines price as claimed by the petitioners.

[11] The Petitioners also argue any resulting lower price would still not match the price educational institutions could provide, but this is based on the $15/month price the Commission discounts for rural areas. In general, based on the historic success of spectrum auctions at the FCC and the ability of the overlay auction format to rationalize the irregular patchwork of EBS license areas with often complicated licensing arrangements, the Commission believes that auctioning the fallow 2.5 GHz spectrum will provide the most benefit to the American consumers.

[12] The SHLB et al. acknowledge that the Commission ''attempt[ed] to distinguish the reasons for the Tribal priority window from the more general educational priority windows.'' *Id.* at 16. Rather than address the reasons for distinguishing Tribal entities, the SHLB et al. cite a handful of submissions in the record to contend that the Commission's ''conclusion that many educators might not be positioned to provide broadband is unsupported in fact and in the record.'' As discussed above and in the *2.5 GHz Report and Order,* however, the Commission's experience with the EBS service and its review of the record indicate that only ''a small fraction of educational institutions'' have expressed an interest in providing broadband service in rural areas, which does not provide a sufficient basis for establishing an educational priority window.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 03–123, FCC 20–105; FRS 17377]

Telecommunications Relay Service Rules Modernization

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) eliminates two Telecommunications Relay Service (TRS) mandatory minimum standards because they are no longer necessary to provide functional equivalence with voice services, and ceases **Federal Register** publication of applications for certification of state TRS programs in favor of providing notice on the Commission's website and in its Electronic Document Management System (EDOCS).

DATES: *Effective Date:* These rules are effective March 25, 2021.

FOR FURTHER INFORMATION CONTACT: William Wallace, Consumer and Governmental Affairs Bureau, at (202) 418–2716, or email *William.Wallace@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report

and Order, document FCC 20–105, adopted on August 4, 2020, released on August 5, 2020, in CG Docket No. 03–123. The Commission previously sought comment on these issues in a Further Notice of Proposed Rulemaking (*2019 TRS Rules Modernization FNPRM*), published at 85 FR 1134, January 9, 2020. The full text of document FCC 20–105 will be available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov,* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

Congressional Review Act

The Commission sent a copy of document FCC 20–105 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Final Paperwork Reduction Act of 1995 Analysis

Document FCC 20–105 does not contain new or modified proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

1. The Commission updates certain rules governing telecommunications relay services (TRS) to improve the efficiency and cost-effectiveness of TRS for both TRS providers and users. In keeping with current technology and prevailing offerings in the voice communications market, the Commission repeals the ''equal access'' and ''billing options'' requirements for TRS providers. The Commission also ceases **Federal Register** publication of state requests for TRS program certifications, relying instead on publication of these applications in the Commission's electronic document management system and on its website.

2. *Equal Access and Billing Options Requirements.* As required by section 225 of the Communications Act (the Act), as amended, 47 U.S.C. 225, the Commission's rules prescribe mandatory minimum standards to ensure that TRS providers offer telephone services for persons with hearing and speech disabilities that are functionally equivalent to voice communication services. The ''equal access'' rule provides that ''TRS users shall have access to their chosen interexchange carrier through the TRS, and to all other operator services to the same extent that such access is provided to voice users,'' and the ''billing options'' requirement directs TRS providers to offer ''the same billing options (*e.g.,* sent-paid long distance, operator-assisted, collect, and third party billing) traditionally offered for wireline voice services.''

3. In 2014, the Commission revisited these rules in part. The Commission recognized that the voice communications marketplace had undergone major changes since the rules were adopted in 1991. As a result, consumers of Voice over internet Protocol and mobile telephone services routinely received long distance service as a bundled feature of their service plans, with no separate time- or distance-sensitive fees, eliminating the need for equal access and alternative billing options. The Commission concluded that these features had become unnecessary to ensure functional equivalence for internet-based forms of TRS in cases where the internet-based TRS provider is not charging users for long distance service. As a result, the equal access and billing options requirements currently only apply to the three non-internet-based forms of TRS, which are provided through state programs.

4. *Federal Register Publication.* Section 225 of the Act provides that states choosing to establish state TRS programs for intrastate service must request and receive certification for such programs from the Commission. Since 1991, the Commission's TRS rules have required that, upon the filing of *state* certification applications, a notice seeking public comment on such applications shall be published in the **Federal Register**. In 2000, the Commission established EDOCS, and decided that notice of applications for certification of *internet-based* forms on TRS would be published in EDOCS and on the Commission's website, with no requirement to publish such notice in the **Federal Register**.

5. *Further Notice of Proposed Rulemaking.* In the *2019 TRS Rules Modernization FNPRM,* the Commission proposed (1) to repeal the equal access and billing options rules for all TRS providers and (2) to cease **Federal Register** publication of state TRS certification applications in favor of publication on its website and in EDOCS.

6. *Repeal of Equal Access Rule.* The Commission repeals the equal access requirement in its entirety. This rule is no longer needed to ensure the functional equivalence of TRS. Because voice customers today typically obtain telephone service by paying a bundled or flat rate without time or distance differentials for long distance calls, the ability to select a long distance provider is no longer an essential aspect of telephone service, and the Commission has terminated equal access requirements for voice service. Further, section 225 of the Act only requires TRS to include equal access ''to the same extent that such access is provided to voice users,'' and there are few situations in which a TRS provider would be obligated to provide equal access under the current rule, even if a consumer were to request such access.

7. This unnecessary rule also burdens TRS providers with the cost of maintaining an equal access infrastructure, hindering the efficient provision of TRS. Deleting the equal access rule will allow TRS providers to modernize their TRS facilities and discontinue what can be a confusing and time-consuming call setup process.

8. *Clarification Regarding Financial Incentives.* The Commission clarifies that, when TRS providers allow consumers to make long distance calls without incurring per-minute charges, such offerings do not constitute an impermissible financial incentive for TRS use. In today's marketplace, the widespread bundling of long distance and local calling negates any risk that offering free long distance to TRS users would create an impermissible incentive to make long distance calls. This clarification is limited to the specific issue regarding per-minute charges for long distance service and does not, for example, authorize a TRS provider to reimburse or otherwise assume payment for charges currently assessed on TRS users for internet access or telephone service.

9. *Repeal of Billing Options Requirement.* The Commission repeals the billing options requirement in its entirety. Alternative billing options are disappearing from the world of voice services, and thus options such as sent-paid long distance and collect, calling card, and third-party billing are no longer essential to ensure that TRS is functionally equivalent to voice service.

10. Eliminating this obligation will relieve TRS providers from any need to maintain obsolete features of circuit-switched networks at a time when they and others within the communications industry have been transitioning to IP-based platforms. In addition to

functional equivalence and efficiency, allowing TRS users access to improvements in technology is another one of the Commission's mandates under section 225 of the Act. Repealing the billing options rule will benefit TRS providers and users by allowing technological improvements with no consequential costs or harms to the functional equivalence and efficiency of TRS.

11. *Ceasing* **Federal Register** *Publication.* The Commission deletes the requirement that public notices of applications for certification of state TRS programs be published in the **Federal Register**. This action will improve the efficiency of the Commission's TRS certification process and conserve administrative resources, and will not conflict with statutory requirements or the Commission's ability to make informed certification decisions. **Federal Register** publication of state certification applications is not required by section 225 of the Act or the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* Such certifications do not involve rulemaking, and the Commission's review is conducted based on the documentation submitted by a state, with no adjudicatory hearing ordinarily needed to determine whether a state program merits certification. Moreover, for comparable Commission authorization processes, such as certifications for internet-based TRS providers and common-carrier applications for certificates of ''public convenience and necessity,'' **Federal Register** publication is not required unless special circumstances apply.

12. Ceasing **Federal Register** publication will not prevent or deter public input on state TRS certification proposals. Since this rule was adopted, the Commission has introduced an internet-based document management system, which makes public notices requesting comment on applications (as well as the applications themselves) readily accessible through the Commission's EDOCS and ECFS on the Commission's website. Posting electronic notices of state TRS certification applications via EDOCS and the Commission's website will provide sufficient notice to enable interested members of the public to comment on an application.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980 as amended, the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into the Further Notice of Proposed Rulemaking. The Commission sought written public comment on the proposals in the *2019 TRS Rules Modernization FNPRM,* including comment on the IRFA.

Need For, and Objectives of, the Rules

13. Document FCC 20–105 eliminates the outdated equal access and multiple billing options requirements form the TRS mandatory minimum standards and streamlines Commission processes by ceasing **Federal Register** publications of state requests for TRS program certification, while continuing to publish notice of certification applications in the Commission's electronic document management system and on the Commission's website.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

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

Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

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

Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

16. The amendments to rules adopted in the Report and Order will affect the obligations of non-internet based TRS providers. These services can be included within the broad economic category of All Other Telecommunications.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

17. Elimination of the equal access and billing options for TRS providers and ceasing **Federal Register** publication for state TRS program certification applications do not create direct reporting, recordkeeping, or other compliance requirements on TRS providers.

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

18. Repeal of the equal access and billing options requirements will reduce the burden on small entities subject to the rule. Such entities would no longer need to provide TRS users with the ability to select their long distance carrier or offer billing options, and the providers would no longer be required to configure their networks for such functionalities. Other small entities would not be affected.

19. Eliminating the requirement for the Commission to publish in the **Federal Register** notice of applications for certification of state TRS programs will have no impact on small entities because only the Commission is burdened by this obligation.

Ordering Clauses

20. Pursuant to sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, and 225, document FCC 20–105 is adopted, and the Commission's rules are amended.

21. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Telecommunications, Telecommunications relay services. Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the 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. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 262, 276, 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. Amend § 64.604 by revising paragraph (a)(3)(ii) to read as follows and removing and reserving paragraph (b)(3):

§ 64.604 Mandatory Minimum Standards.

* * * * *

(a) * * *

(3) * * *

(ii) Relay services shall be capable of handling any type of call normally provided by telecommunications carriers unless the Commission determines that it is not technologically feasible to do so. Relay service providers have the burden of proving the infeasibility of handling any type of call.

* * * * *

■ 3. Amend § 64.606 by revising paragraph (a)(1) to read as follows:

§ 64.606 internet-based TRS provider and TRS program certification.

(a) * * * (1) *Certified state program.* Any state, through its office of the governor or other delegated executive office empowered to provide TRS, desiring to establish a state program under this section shall submit documentation to the Commission addressed to the Federal Communications Commission, Chief, Consumer and Governmental Affairs Bureau, TRS Certification Program, Washington, DC 20554, and captioned ''TRS State Certification Application.'' All documentation shall be submitted in narrative form, shall clearly describe the state program for implementing intrastate TRS, and the procedures and remedies for enforcing any requirements imposed by the state program. The Commission shall give public notice of state applications for certification.

* * * * *

[FR Doc. 2021–00792 Filed 2–22–21; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 20–145; FCC 20–181; FRS 17327]

Promoting Broadcast Internet Innovation Through ATSC 3.0

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Through this final rule, the Commission fosters the efficient and robust use of broadcast spectrum capacity for the provision of Broadcast internet services consistent with statutory directives. In this document, the Commission concludes that ancillary and supplementary (A&S) fees should be calculated based on the gross revenue received by the broadcaster, without regard to the gross revenue of an unaffiliated third party, such as a spectrum lessee; should retain the existing standard of derogation of broadcast service, but amend the wording of the rules to eliminate the outdated reference to analog television; and should reaffirm that noncommercial educational television broadcast stations (NCEs) may offer Broadcast internet services. The Commission also reinterprets the application to permit noncommercial educational stations (NCEs) to devote the substantial majority of their spectrum not just to free over-the-air television but also ancillary and supplementary services; lowers the ancillary and supplementary service fee for certain NCE services; and clarifies that NCEs may offer limited Broadcast internet services to donors without transforming those donations into feeable ancillary and supplementary service revenue.

DATES: Effective March 25, 2021.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Lyle Elder, *Lyle.Elder@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120. Direct press inquiries to Janice Wise at (202) 418–8165.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 20–181, adopted and released on December 10, 2020. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *https://www.fcc.gov/edocs* or via the FCC's Electronic Comment Filing System (ECFS) website at *https://www.fcc.gov/ecfs.* (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

1. Earlier last year, the Commission initiated a proceeding to encourage the provision of new and innovative Broadcast internet services enabled by ATSC 3.0—the ''Next Generation'' broadcast television standard often referred to as Next Gen TV—that can complement the nation's 5G wireless networks.[1] In so doing, the Commission sought to eliminate uncertainty cast on such services by legacy regulations and to consider whether, and if so how, to update the Commission's rules regarding ancillary and supplementary services, adopted over 20 years ago. With this item, we take additional steps to clarify and update the regulatory landscape in order to foster the efficient and robust use of broadcast spectrum capacity for the provision of Broadcast internet services consistent with statutory directives.

2. In this Report and Order (Order), we adopt, with only minor changes, four of the tentative conclusions set forth in the *NPRM.* Specifically, we clarify the basis on which to calculate ancillary and supplementary service fees. We retain the existing standard of derogation of broadcast service. We also, however, amend the derogation rule to eliminate an outdated reference to analog television. We reaffirm the freedom of noncommercial educational television stations (NCEs) to provide ancillary and supplementary services. And while we generally decline at this time to adjust the fee imposed on ancillary and supplementary services, we intend to revisit this issue at a future date to determine whether we should adjust the fee or the basis of the fee once the market for Broadcast internet services develops.

3. Recognizing the unique educational public service mission of NCEs seeking to provide Broadcast internet services, we also adopt a number of additional proposals designed to preserve and expand this essential mission. Notably, we find that an NCE television broadcast station may use its 6 MHz channel capacity primarily not only for its free, over-the-air nonprofit, noncommercial, educational, television broadcast service, as under our current interpretation of the rule, but also for any nonprofit, noncommercial, educational (''primary'') ancillary and supplementary services. We also adopt a reduced fee of 2.5% on gross revenue generated by such ''primary'' ancillary and supplementary services, as opposed to the 5% fee applied to ancillary and supplementary services generally. With these actions, this Order continues to lay the groundwork for broadcasters, and thereby the general public, to explore and benefit from the possibilities and opportunities that Broadcast internet provides.

4. *Background.* As the Commission explained in the *NPRM,* the ATSC 3.0 IP-based standard offers greater effective spectral capacity than ATSC 1.0, the current digital broadcast television standard. The additional capacity will allow broadcasters to expand their traditional television offerings, including by offering higher quality video and audio and a wider range of programming choices. Broadcasters may also provide innovative non-traditional services, and the *NPRM* asked about the ''types of Broadcast internet services that are likely to be provided in the future.'' Commenters describe a wide array of exciting possibilities. APTS/

[1] *Promoting Broadcast Internet Innovation Through ATSC 3.0,* MB Docket No. 20–145, Declaratory Ruling and notice of proposed rulemaking, 85 FR 43142 and 85 FR 43195 (July 16, 2020) (*Declaratory Ruling* and *NPRM*). The Commission referred to these new ancillary offerings over broadcast spectrum as ''Broadcast internet'' services to distinguish them from traditional over-the-air video services. We note that the rule changes we adopt herein will apply equally to all ancillary and supplementary services provided using either the ATSC 1.0 or 3.0 transmission standards.

PBS explain that NCEs might expand and roll out offerings in ''a variety of areas that further their public service missions, especially education, child development, public safety, national security, job training, and telehealth.'' PMG describes a wide range of possible uses, including: (i) Distance learning services, such as distributing subject- and classroom-specific lectures and reading materials to students, and broadcasting content to school buses during long rural commutes to make that time more enriching for students; (ii) trusted, encrypted, and curated distribution of health-related content to those unserved and underserved by high-speed internet; (iii) emergency alerting services that allow more homes, vehicles, and first responders to gain access to life-saving information; (iv) expanded distribution of local and hyper-local news to audiences across a community; and (iv) software and cybersecurity updates to power smart cities, automobiles, and ''Internet of Things'' (IoT) products and applications. ONE Media explains that:

> [i]n addition to enhanced broadcast programming, the ATSC 3.0 standard enables use of television spectrum to communicate with devices over wide areas efficiently, expanding opportunities for distance learning, advanced emergency alerting and information functions, highly secure file delivery and authentication, offloading large data files (including video) needed by carriers to cache programming directly on user devices, dramatically improving efficient distribution of data to autonomous driving vehicles, facilitating near-instantaneous needs for IoT devices and telemedicine or smart agriculture activities, and other innovative services yet to be conceived.

5. In June 2020, the Commission commenced this proceeding to ensure that our rules will help foster the development of innovative and efficient uses of broadcast spectrum like the ones described above. In the *Declaratory Ruling,* the Commission clarified that the lease of excess broadcast television spectrum to a third party, including another broadcaster, for the provision of ancillary and supplementary services does not result in attribution under our broadcast television station ownership rules or for any other requirements related to television station attribution (*e.g.,* filing ownership reports). The Commission explained that regulatory clarity will help ensure that broadcasters and other innovators have the flexibility to generate the scale—both locally and nationally—that may be necessary to support certain Broadcast internet services, and that regulatory reform can ensure that market forces, rather than outdated rules, determine the success of the nascent Broadcast internet industry. In the accompanying *NPRM,* the Commission sought comment on any rule changes needed to further promote regulatory certainty and greater investment in innovative Broadcast internet services.

6. Specifically, the *NPRM* sought comment on a number of general matters concerning the potential uses and applications of excess broadcast spectrum capacity resulting from the transition to ATSC 3.0; on whether the amount and method of calculating the ancillary and supplementary services fee should be reconsidered given the new potential uses of excess spectrum capacity; and on whether the Commission should clarify or modify the rules prohibiting derogation of broadcast service and defining an analogous service. The *NPRM* elicited 17 comments, 12 replies, and numerous ex parte filings from commenters representing companies and industry groups from the broadcast, cable, wireless, and consumer electronics industries, as well as non-profit groups and groups hoping to explore new Broadcast internet opportunities. Commenters are largely supportive of the Commission's tentative conclusions, although as discussed below there is notable opposition to the proposal to exclude third party facility improvements from revenue calculations, a proposal we decline to adopt today. There is also disagreement regarding the proposal to clarify the derogation standard, both from parties who support a significant change and parties who oppose any change at all to the existing text. The record also reflects widespread skepticism about any Commission action that would go beyond the tentative conclusions, with two notable exceptions. First, NCEs and associated parties make a compelling case that substantial public benefits could accrue through the widespread deployment of Broadcast internet over public television spectrum, justifying additional steps to encourage that deployment. Second, a large number of low power television (LPTV) station representatives and interested parties propose changes to the rules governing LPTV service, though the proposals are largely unrelated to Broadcast internet services.

7. *Discussion. Ancillary and Supplementary Service Fee.* With one exception, discussed below, we decline at this time to adjust the fee program associated with ancillary and supplementary services. Rather, we will revisit the size and basis of the fee, as well as other relevant issues, when we have a better understanding of how the transition to ATSC 3.0 is progressing. We do, however, adopt our tentative conclusion that fees should be calculated based on the gross revenue received by the broadcaster rather than revenue received by a spectrum lessee. Finally, we decline at this time to adopt the proposal made by Public Knowledge et al. that we use the fees we collect for ancillary and supplementary services to fund a program to offset costs for consumers who upgrade their equipment as part of the transition to ATSC 3.0, and we decline at this time to exempt from the ancillary and supplementary service fee ''in-kind'' contributions, or otherwise change our fee for ancillary and supplementary services that fall into certain classes of service.

8. The Telecommunications Act of 1996 (1996 Act) requires broadcasters to pay a fee to the United States Treasury to the extent they use their digital television (DTV) spectrum to provide ancillary and supplementary services for which the payment of a subscription fee is required in order to receive such services, or for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such a third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required). The 1996 Act further provides that the ancillary and supplementary services fee program shall be designed to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and to avoid unjust enrichment through the method employed to permit such uses of that resource; and to recover for the public an amount that, to the extent feasible, equals but does not exceed (over the term of the license) the amount that would have been recovered had such services been licensed at auction. In addition, the Commission is required by statute to adjust the ancillary and supplementary services fee from time to time in order to ensure that these requirements continue to be met.

9. As a preliminary matter, we reaffirm that section 336 of the 1996 Act gives the Commission flexibility to determine the appropriate fee for ancillary and supplementary services within the parameters set forth in the statute. Section 336 directs the Commission to ''establish a program to assess and collect . . . an annual fee or other schedule or method of payment that promotes the objectives'' described by the statute. Specifically, the statute requires that the fee program be

designed to recover for the public some portion of the value of the spectrum, prevent the unjust enrichment of broadcasters providing ancillary and supplementary services, and approximate the revenues that would have been received had the spectrum on which the services are provided been licensed through an auction. As the Commission has observed, ''the 1996 Act gives the Commission broad discretion in setting the amount of the fee for ancillary and supplementary services,'' bounded by the criteria set forth in section 336(e). Commenters who addressed this issue agree with this analysis.

10. *Fee for Commercial Television Broadcast Stations.* We conclude that we do not have sufficient information at this early stage in the ATSC 3.0 transition to evaluate fully whether a change to, much less elimination of, the current fee for feeable ancillary and supplementary services offered by commercial television stations would better reflect the directives of section 336(e). Accordingly, we retain the current fee of 5% for such stations and intend to reevaluate the fee once the marketplace for Broadcast internet services has become more mature.

11. As the Commission previously has recognized, in considering how to calculate the appropriate ancillary and supplementary fee, we must balance potentially competing statutory goals: Recover a portion of the value of the spectrum used for ancillary and supplementary services, avoid unjust enrichment, and approximate the revenue that would have been received had these services been licensed through an auction. A fee that is too high could dissuade broadcasters from providing Broadcast internet services and thereby reduce the potential benefits to consumers of such services and preclude the Commission from collecting fees approximating the amount that would have been recovered for the spectrum at auction. On the other hand, a fee that is too low may both fail to prevent the unjust enrichment of licensees and to recover for the public an amount approximating the amount that would have been recovered at auction.

12. In considering these statutory mandates, we conclude that it would be premature at this time to adjust the ancillary and supplementary service fee without knowing more about the kinds of Broadcast internet services that will be provided and the economics thereof. The conversion to ATSC 3.0 is entirely voluntary, and commercial service has only recently commenced in a few television markets. We cannot yet gauge the extent to which ATSC 3.0 will be deployed and adopted by consumers or which ATSC 3.0-based services and features will be offered as feeable Broadcast internet services. Indeed, the Commission recently reached a similar conclusion when it first authorized the voluntary transmission to ATSC 3.0. Accordingly, we reject commenters' suggestions that we reconsider the current 5% fee on broadcast commercial stations, at this time. Instead, consistent with recommendations in the record, we believe it would be better to revisit the ancillary and supplementary service fee when the ATSC 3.0 marketplace has further developed.

13. *Calculation of Gross Revenue.* We adopt our tentative conclusion that fees should be calculated based on the gross revenue received by the broadcaster rather than revenue received by a spectrum lessee. As the Commission stated in the *NPRM,* to hold otherwise could subject a broadcaster to a fee payment in excess of the gross revenue it actually receives. All commenters who addressed this issue agree with this approach regarding the calculation of gross revenue. As proposed in the *NPRM,* we also conclude that to the extent the licensee and the lessee are affiliated, we will attribute the gross revenue of the lessee to the licensee for purposes of calculating the ancillary and supplementary services fee, based on a share of gross revenue that is proportional to the licensee's stake in the lessee. Otherwise, as the Commission noted in the *NPRM,* the licensee (or its parent company) could create a subsidiary for the sole purpose of evading the fee while retaining all of the financial benefit of the arrangement.

14. We decline at this time to take up the issue of whether to exclude from gross revenue the value of ''in-kind'' facility improvements. Although the Commission tentatively concluded in the *NPRM* that the value of such improvements should be excluded from the gross revenue calculation, the record on this issue was limited and the comments were mixed. We will continue to monitor the progress of the transition to ATSC 3.0, the provision of Broadcast internet services, and the status of ''in-kind'' facility improvements in the marketplace, and may address this issue in the future if warranted.

15. *ATSC 3.0 Consumer Equipment.* We decline at this time to adopt the proposal made by Public Knowledge et al. that we use the fees collected from ancillary and supplementary services to fund a program offsetting costs for consumers who upgrade their consumer premises equipment as part of the ATSC 3.0 transition. These commenters note that ATSC 3.0 is not compatible with current television devices and contend that, because consumers will have to replace their television sets or purchase converter devices to receive ATSC 3.0 signals, the transition to ATSC 3.0 ''will create high consumer costs, similar to those faced by consumers during the DTV transition.'' Thus, they maintain we should act now, to develop a program to offset ATSC 3.0 transition costs for consumers. We note that the transition to ATSC 3.0 is voluntary and still in its early stages; therefore, we find it is premature to consider such a program at this time. We also note that the DTV transition equipment subsidy program was explicitly mandated by Congress.

16. *Classes of Ancillary and Supplementary Service.* We decline to grant fee exemptions for certain classes of Broadband internet service, such as telehealth, distance learning, public safety, or homeland security-related services, or for services that promote internet access in rural areas. Although, according to the record, such services are currently beginning to be provided by, or are in development by, NCE stations, we believe it is premature to take any such action given the nascent state of the market for these ATSC 3.0 services. As discussed further below, we take action in this Order to encourage the development of ''primary'' NCE ancillary and supplementary services (those used for nonprofit, noncommercial, educational purposes), by reducing the fee associated with such services. At the same time, we conclude that we do not have a sufficient basis at this time to support changing our fee approach for any other type of ancillary and supplementary service that are not considered ''primary.'' Among other things, we lack information regarding how such services are likely to be provided, whether they will be revenue-generating, whether there will be sufficient demand to support the provision of such services, or whether our current fee for ancillary and supplementary services will dissuade broadcasters from offering such services. For similar reasons, we also decline at this time to exempt from fees, or adopt a lower fee for, services that promote internet access in rural areas. We will continue to monitor the transition to ATSC 3.0, including the provision of Broadcast internet services such as telehealth, public safety, and homeland security-related services, as well as services that provide internet access in rural areas, and may reconsider this issue in the future.

17. *NCE Television Stations.* NCE television stations play an important role in providing nonprofit, noncommercial, and education services to communities nationwide, and the Commission is committed to supporting their enthusiastic embrace of the possibilities that Next Gen TV provides. Accordingly, we adopt, in part, the commenter proposal to reinterpret § 73.621 of our rules, which will allow NCEs to provide a wider range of services that align with their core mission. While, as discussed above, we generally decline to adjust the fee associated with ancillary and supplementary services, to the extent that NCE television stations offer feeable ancillary and supplementary services that are nonprofit, noncommercial, and educational, we adopt a reduced fee based on 2.5% of gross revenues generated by such ''primary'' ancillary and supplementary services. We also clarify that when an NCE television station provides ''donor exclusive'' ancillary and supplementary services that are nominal in value in return for contributions to the licensee, we will not treat such contributions as ''subscription fees'' under section 336 of the 1996 Act or § 73.621 of our rules.

18. *NCE Ancillary and Supplementary Services.* We conclude that an NCE television licensee may provide Broadcast internet services, provided that the substantial majority of its 6 MHz channel capacity is dedicated to a combination of free, over-the-air nonprofit, noncommercial, educational, television broadcast service and any nonprofit, noncommercial, educational (or ''primary'') ancillary and supplementary services it chooses to provide.[2] In this regard, we modify the 2001 *NCE Ancillary Services Report and Order's* interpretation of § 73.621,[3] which held that a substantial majority of an NCE television licensee's digital capacity must be dedicated to nonprofit, noncommercial, educational broadcast service, limiting ancillary and supplementary services to an NCE television licensee's excess capacity. In so doing, we seek to preserve the nonprofit, noncommercial, educational nature of an NCE television licensee's service to its community, while affording such NCE licensees increased flexibility to provide ''primary'' services that are not traditional broadcasting. Although we decline to define what constitutes a ''substantial majority'' of the NCE's digital bitstream at this time, we expect to seek comment in a future proceeding on whether it is appropriate to revise § 73.621(j) regarding the amount of its 6 MHz channel capacity that an NCE television licensee must devote to ''primary'' uses, the scope of those primary uses, and any other related matters.[4]

19. As an initial matter, we adopt our unopposed tentative conclusion that NCE television licensees are allowed to provide ancillary and supplementary services. Indeed, the 2001 *NCE Ancillary Services Report and Order* sought to clarify not *whether* NCEs could offer ancillary and supplementary services, but ''the *manner* in which [NCE] television licensees may use their excess [DTV] capacity for remunerative purposes.'' The 2001 *NCE Ancillary Services Report and Order* amended § 73.621 of the rules ''to clarify that the [s]ection's requirements apply to the entire digital bitstream of NCE [television] licensees, including the provision of ancillary or supplementary services,'' in order to ''preserve the noncommercial educational nature of public broadcasting, while allowing NCE [television] licensees some flexibility in remunerative use of their spectrum.'' The Commission concluded at the time that this balance required NCE television licensees to ''use their entire digital capacity *primarily* for a nonprofit, noncommercial, educational broadcast service.'' The Commission ''decline[d] to quantify the term 'primarily,' '' but ''consider[ed] it to mean a '*substantial majority*' of [the NCE television licensee's] entire digital capacity.''

20. In light of the unique educational public service mission of noncommercial educational television stations (NCEs) seeking to provide ancillary and supplementary services, we clarify that § 73.621 allows NCE television licensees to count as part of the ''primary'' use of their spectrum not just ''nonprofit, noncommercial, educational, broadcast service,'' but also ancillary and supplementary services that are nonprofit, noncommercial, and educational in nature. Specifically, we conclude that § 73.621(j) permits an NCE television licensee to count nonprofit, noncommercial, and educational ancillary and supplementary services, together with its free, over-the-air nonprofit, noncommercial, educational television broadcast service, as ''primary'' services that fall within § 73.621(a). Section 73.621(j) states that § 73.621 ''will apply to the entire digital bitstream of noncommercial educational television stations, including the provision of ancillary or supplementary services.'' We recognize that the 2001 *NCE Ancillary Services Report and Order,* which adopted § 73.621(j), interpreted this provision to mean that NCE television licensees are required to use their entire digital capacity ''primarily'' for their free, over-the-air television nonprofit, noncommercial, educational broadcast service and that ancillary and supplementary services do not qualify as a ''primary'' use. We reject this interpretation of § 73.621(j) of our rules as unnecessarily narrow. Rather, we agree with APTS/PBS and PMVG that it is reasonable to afford greater flexibility to NCE television licensees to provide ancillary and supplementary services that are nonprofit, noncommercial, and educational in nature as a ''primary'' use, and that there is a wide potential variety of such services.[5] We are

[2] An NCE television licensee may provide ancillary and supplementary services that are *not* nonprofit, noncommercial, and educational—including commercial services—on the licensee's excess (*i.e.,* non-primary) capacity. Such services will be subject to the standard fee of 5% of gross revenues. We note that an NCE licensee, like all other television broadcasters, must broadcast at least one free over-the-air video programming stream, and its ancillary and supplementary services must not derogate this service. During the transition period to ATSC 3.0 service, we are affording NCE television broadcasters significant flexibility to determine the best mix of services for their communities. However, as during the DTV transition, our expectation remains that the fundamental use of the DTV license will be for the provision of free, over-the-air television service. We do not decide at this time the separate, broader issue of how much spectral capacity a broadcast television station (commercial or NCE) must use *after* the ATSC 3.0 transition period for the provision of its free over-the-air television service. We will consider this issue in a future proceeding, such as when we decide it is the appropriate time to consider eliminating the ATSC 1.0 simulcasting requirement.

[3] 66 FR 58973 (Nov. 26, 2001).

[4] In addition, until we address this issue in this future proceeding, we will consider waiver requests as necessary to allow public safety or other ancillary and supplementary uses that are nonprofit and noncommercial, but may not be educational in nature, to be applied to the ''substantial majority'' portion of an NCE licensee's spectrum dedicated for ''primary'' purposes.

[5] APTS/PBS maintain that any ancillary or supplementary service that '' 'serve[s] the educational needs of the community' or furthers the 'advancement of educational programs' '' should be considered ''primary.'' We reject this view because it would permit *for-profit, commercial* educational services (or *non-educational* television broadcasts) to be counted among the ''primary'' uses of an NCE's spectrum. Instead, consistent with the requirements in § 73.621(a) that the station qualify as ''noncommercial educational'' and is licensed ''only to [a] nonprofit educational organization,'' the rule requires that all ''primary'' uses, whether broadcast television or ancillary and supplementary, must be nonprofit, noncommercial, *and* educational. We find this reading best preserves the nonprofit, noncommercial, and educational nature of public broadcasting. We note that our decision today applies only to the application of § 73.621(a) to the provision of ancillary and supplementary services pursuant to § 73.621(j); it does not change an NCE television licensee's broadcast and other obligations under § 73.621(a).

unpersuaded by Public Knowledge's contention that ''allowing NCEs to count spectrum used for ancillary and supplementary services as primary service . . . violates 47 U.S.C. [397](11).'' [6] Accordingly, we interpret the language of § 73.621(j) providing that the requirements of § 73.621 will apply to the entire digital bitstream of NCE television stations, ''including the provision of ancillary or supplementary services,'' to broaden the scope of § 73.621(a) such that NCE television stations have the flexibility to make ''primary'' use of their ''entire digital bitstream'' through provision of not only a nonprofit, noncommercial, educational television broadcast service, but also any nonprofit, noncommercial, and educational ancillary and supplementary services it chooses to provide.

21. Although we adopt the NCE proposal to reinterpret our rules to permit ''primary'' ancillary and supplementary services, we decline to ''pre-approve'' specific services that could be considered primary. APTS/PBS and PMVG ask us essentially to create a ''safe harbor'' for Broadcast internet services by identifying specific services that will qualify as ''primary'' uses under § 73.621(a). Given the nascent state of the Broadcast internet market, we find that it would be premature to classify such services in this manner. Instead, consistent with our precedent in applying § 73.621(a) to broadcast programming, we will defer to the judgment of the broadcaster when evaluating whether a given ancillary and supplementary service is educational unless such categorization appears to be arbitrary or unreasonable.

22. We also decline, at this time, to adopt the NCE television broadcasters' proposal to redefine the term ''primarily,'' as used in § 73.621(a), to mean a ''simple majority'' instead of a ''substantial majority,'' which is the definition adopted by the Commission in the 2001 *NCE Ancillary Services Report and Order.* We disagree with APTS/PBS that there is a plain or common meaning of the term ''primarily,'' and instead find that the term is ambiguous.[7] In light of this ambiguity, the Commission previously determined in 2001 that ''primarily'' means ''substantial majority.'' This definition was not challenged at the time, and we are not persuaded by the arguments in the record that present circumstances warrant reconsideration of this earlier decision. Given the retention of our substantial majority requirement, Public Knowledge is incorrect that our rules ''will allow NCEs to sublease or otherwise monetize *the majority of their spectrum* to third parties instead of providing free service to the public.'' Moreover, we find that our decision to include certain ancillary and supplementary services as part of the ''primary'' use of their spectrum affords NCE television licensees substantial additional flexibility in light of the enhanced capabilities made possible by the ATSC 3.0 standard.[8] As these services reach the market, we will have additional context upon which to evaluate whether any changes to the definition of ''primarily'' are warranted. Accordingly, we defer examination of this issue and any other related matters until the Broadcast internet marketplace matures.[9]

23. *Fee for NCE Primary Ancillary and Supplementary Services.* While we generally decline to adjust the fee associated with ancillary and supplementary services, to the extent that NCE television stations offer feeable ancillary and supplementary services that are nonprofit, noncommercial, and educational, we adopt a reduced fee of 2.5% on gross revenues generated by such ''primary'' services. As discussed above, § 73.621 of our rules provides that NCE stations must ''be used primarily to serve the educational needs of the community; for the advancement of educational programs; and to furnish a nonprofit and noncommercial television broadcast service,'' and extends this requirement to all services provided via the station's digital bitstream. Given the benefit of the ''distinctive content of public broadcast programming'' provided by NCEs, and the fact that the auction value of spectrum that must be ''primarily'' used for such services is likely lower than that of spectrum used for services without such restrictions, we believe this lower fee is appropriate.

24. Although we decline at this time to exempt NCE television stations entirely from all fees on ancillary and supplementary service revenues devoted to the station's nonprofit activities as APTS/PBS suggest, we believe that the reduction we adopt is an appropriate incremental and balanced approach. While some commenters suggest that we make no change to the 5% fee under any circumstances, and others asked us to eliminate it entirely, we find that a fee of 2.5% for ''primary'' NCE ancillary and supplementary services that are feeable under the statute appropriately recognizes the public service mission of public television stations without creating a significant disparity with the 5% fee applied to other ancillary and supplementary services offered by NCE and commercial television stations. While we decline to adjust the 5% fee generally, choosing instead to wait until the ATSC 3.0 marketplace further develops and after a further review is conducted, we believe a different approach is warranted for NCE stations. We seek to support the ability of public television stations to provide and expand their nonprofit, noncommercial, educational services and engage in new and innovative educational efforts using ATSC 3.0 technology.[10] NCE nonprofit, noncommercial, educational services, provided by the nonprofit, education-focused licensees of NCE stations, uniquely advance the public interest and therefore should be treated differently under our fee program than other ancillary and supplementary services that are provided by NCE and commercial broadcast stations. Given this, our approach appropriately reduces the fees on any revenue generated by such ''primary'' NCE ancillary and supplementary services, thereby permitting the nonprofit, education-focused licensees of NCE television stations to retain a larger percentage of any such revenue, providing more funds to support the

[6] Applying the last-antecedent rule, which ''provides that 'a limiting clause or phrase . . . should ordinarily be read as modifying only the noun or noun phrase that it immediately follows,' '' we observe that ''engaged primarily in the production, acquisition, distribution, or dissemination of educational and cultural television or radio programs'' is defining ''any nonprofit institution,'' and not ''any licensee or permittee of a public broadcast station.'' Furthermore, our ''primary service'' decision applies to the use of a licensee's spectrum, not the activities of the licensee itself.

[7] We note that the Merriam-Webster online dictionary defines ''primarily'' as ''for the most part; chiefly.'' Webster's New World Dictionary defines it as ''mainly; principally.'' Thus, while ''primarily'' could be used to mean a ''simple majority,'' that is far from the ''common'' understanding.

[8] Public Knowledge's claims to the contrary notwithstanding, nothing in this Order undermines the policy of ensuring free, over-the-air, educational television programming. As required by existing rules, each NCE station must continue to provide a free, over-the-air, nonprofit, noncommercial, educational television broadcast service.

[9] We will also consider waiver requests, as necessary, to allow public safety or other ancillary and supplementary uses that are nonprofit and noncommercial, but may not be educational in nature, to be applied to the ''substantial majority'' portion of an NCE licensee's spectrum committed to ''primary'' purposes.

[10] We note that Public Knowledge et al. contend that the Commission is prohibited from setting a fee of zero for any licensee. Because we will continue to collect ancillary and supplementary fees from every licensee, both commercial and noncommercial, we need not address Public Knowledge et al.'s argument.

core educational public service missions of such stations.

25. We find that our approach is consistent with section 336 of the 1996 Act. As discussed above, the language of section 336 gives the Commission wide discretion to select the appropriate fee for feeable ancillary and supplementary services. Thus, we conclude that we have discretion under the statute to establish a fee for NCE primary ancillary and supplementary services that is lower than the fee for other ancillary and supplementary services, including those provided by commercial stations. Section 336(e)(1) directs the Commission to establish ''a program to assess and collect'' ancillary and supplementary fees that, pursuant to section 336(e)(2), recover ''a portion of the value of the public spectrum,'' ''avoid unjust enrichment,'' and, eventually, recover an amount approximately equivalent to the spectrum's value at auction. Section 336 does not require the Commission to levy fees in direct proportion to the amount of spectrum held by each licensee. Adjusting our program of fees to impose a reduced fee of 2.5% for NCE stations' ''primary'' ancillary and supplementary services will not undermine the Commission's ability to recover for the public a portion of the value of the spectrum made available for ancillary and supplementary uses. Furthermore, a reduced fee on the nonprofit, noncommercial, educational ancillary and supplementary services offered by NCEs will not create a danger of unjust enrichment. Any additional ''primary'' NCE ancillary and supplementary services offered as a result of these lower fees will, by their nature, redound to the public's benefit more than to the benefit of the nonprofit educational organization licensees of the NCE stations.

26. Finally, we conclude that a 2.5% fee is consistent with our directive under section 336(e)(2)(B) to recover for the public an amount that would have been recovered ''had such services been licensed'' pursuant to an auction. The reduced fee of 2.5% will apply only to feeable ancillary and supplementary services that qualify as ''primary'' NCE services under § 73.621 of our rules, which means they must be nonprofit, noncommercial, and educational in nature. If spectrum restricted in this manner were offered for auction, we expect that bidders would offer a more modest amount of money for the right to build facilities that are restricted to providing services that are ''primarily'' nonprofit, noncommercial, and educational as opposed to spectrum designated for commercial use.[11] In other words, the requirements imposed on the use of the NCE station spectrum make this spectrum inherently less valuable at auction than spectrum without such use restrictions.[12] Given the benefits to the public of an accelerated rollout of NCE primary Broadcast internet services, we find it is appropriate to adopt this reduced fee even though it may overstate the auction value of spectrum so restricted. We are directed not only to ''collect an amount that . . . equals but does not exceed'' the auction value of the spectrum, but also to recover a ''portion of the value of the public spectrum resource'' while avoiding unjust enrichment. While we find 2.5% to be appropriate at this time, we intend to monitor the development of the NCE Broadcast internet marketplace and may adjust the fee if conditions warrant.

27. In reaching our decision, we are not constrained by the Commission's previous decision to apply to NCE licensees the same fee for ancillary and supplementary services that we apply to commercial licensees. Instead, we conclude that advances in technology and the associated new offerings anticipated by NCE stations suggest a different approach is currently warranted when assessing the appropriate fee for NCE ''primary'' ancillary and supplementary services. Public television stations are already experimenting with ancillary and supplementary services that advance the public interest. Applying a reduced fee for ''primary'' NCE services will give NCE licensees both an additional incentive to pursue the expensive transition to ATSC 3.0 and additional resources to devote to their core mission. We find that the 2.5% rate for ''primary'' ancillary and supplementary services is sufficient to meet our obligations under section 336 of the 1996 Act and will advance our goals of promoting Broadcast internet services and supporting the mission of NCE television stations to provide nonprofit, noncommercial, educational services.

28. We note that this limited change does not excuse NCEs from their obligation to file an ''Annual DTV Ancillary/Supplementary Services Report'' whenever they receive feeable ancillary and supplementary services revenue. We expect that, in this report, NCE filers will clearly identify any services that are nonprofit, noncommercial, and educational and therefore qualify for the reduced fee.[13]

29. *Donor Contributions to NCE Television Stations.* As requested by PMVG and unopposed by other commenters, we clarify that, when an NCE television station provides ''donor exclusive'' ancillary and supplementary services that are nominal in value in return for contributions to the licensee, we will not treat such contributions as ''subscription fees'' under section 336 of the 1996 Act or § 73.621 of our rules. For example, PMVG notes that stations may provide donor households with exclusive links to supplemental content, such as extended interviews or reference materials relevant to public affairs programming, or stations could offer donor households enhanced viewing experiences, such as the opportunity to view a local orchestra performance in 4K definition with immersive sound. We will not treat such donor exclusive services as feeable as long as the ancillary and supplementary service provided in return is comparable in terms of value to the kinds of small gifts (*e.g.,* coffee mugs, tote bags) that NCE stations often give donors in return for contributions. We agree with PMVG that the type of limited content offerings described above are comparable to the traditional donor gifts provided by NCE stations and should not be treated as ancillary and supplementary services provided in return for a subscription fee. We also agree that, unlike programming provided in return for a subscription fee, the value of such content offerings made in return for a donation is likely minimal as compared to the value of the donation. In addition, unlike a subscription fee, the donation is made voluntarily and not pursuant to a subscription agreement. We intend to monitor the provision of ''donor exclusive'' services, however, and we may reconsider our decision in the future if such donor services appear to be comparable to subscription-based services.

[11] Our analysis is consistent with the analysis the Commission applied to section 336(e)(2)(B) in the *NCE Ancillary Services Report and Order.*

[12] We agree with BitPath that, in considering among other things the appropriate level of the fee, the Commission should consider the auction value of the spectrum in the context of the ancillary and supplementary services being provided, not merely the auction value of the spectrum in the abstract.

[13] We dismiss as moot NTCA's proposal for a detailed reporting and audit system, which they suggest should apply if we waived all fees for certain Broadcast internet services.

30. *Derogation and Analogous Services.* We adopt our tentative conclusion that whether a broadcast station's signal has been derogated should continue to be evaluated by whether it provides ''at least one standard definition over-the-air video program signal at no direct charge to viewers that is at least comparable in resolution to analog television programming.'' We also adopt our tentative conclusion to amend the wording of § 73.624(b) to define the precise resolution that is considered to be ''at least comparable in resolution to analog television programming'' as 480i, with a slight modification.[14] Based on the record, we decline to adopt two other proposals on which we sought comment in the *NPRM*—a presumption that Broadcast internet services are not analogous to any other service regulated by the Commission and a de minimis service threshold under which ancillary and supplementary services might be exempted from the need to comply with the regulations applicable to an analogous service otherwise regulated by the Commission.

31. As discussed in the *NPRM,* section 336 of the 1996 Act allows broadcasters the flexibility to provide ancillary and supplementary services on their DTV channels.[15] In authorizing such services, Congress directed the Commission to adopt rules ensuring that broadcasters providing ancillary and supplementary services: (1) Avoid derogating any advanced television services that the Commission may require; and (2) are subject to Commission regulations applicable to analogous services. In furtherance of these statutory requirements, the Commission adopted § 73.624(c) of the rules, which permits broadcasters to offer ancillary and supplementary services provided they ''do not derogate the DTV broadcast stations' obligations under paragraph (b) of this section.'' Section 73.624(b) of the rules, in turn, requires that each DTV broadcast licensee transmit at least one standard definition (SD) over-the-air video program signal on its digital channel, at no charge to viewers, that is at least comparable in resolution to analog television programming. The Commission also adopted rules codifying that broadcasters are permitted to provide ancillary and supplementary services on their broadcast spectrum that are analogous to other regulated services. If they choose to do so, however, they are required to adhere to any rules specific to such type of service.

32. *Derogation of Service. Derogation of Service Standard.* We adopt our tentative conclusion that whether a broadcast station's signal has been derogated should continue to be evaluated by whether it provides ''at least one standard definition over-the-air video program signal at no direct charge to viewers that is at least comparable in resolution to analog television programming.'' As acknowledged both in this proceeding and by the Commission in the *Next Gen TV Report and Order,*[16] the ATSC 3.0 standard will provide expanded capacity for broadcasters to offer not only HD programming, but also other enhanced television resolutions such as 4K and 8K more efficiently. However, as noted by NAB and BitPath, in light of the ATSC 3.0 local simulcasting requirement, requiring broadcasters to provide a higher resolution above SD at this early stage of ATSC 3.0 deployment could jeopardize their ability to preserve both primary and secondary ATSC 1.0 signals as stations convert to ATSC 3.0. Moreover, we agree with NAB, Pearl, and BitPath that current marketplace forces are sufficient to incentivize broadcasters to maintain their existing standards of service for viewers, which notably may include HD programming streams.

33. Next, we deny requests from several commenters that we prohibit broadcasters from transitioning a signal from HD to SD in order to provide an ancillary and supplementary service. Earlier this year, the Commission rejected NCTA's proposal to require that ATSC 1.0 signals be simulcast in HD. While we agree with NCTA that transitioning an ATSC 1.0 signal from HD to SD to facilitate the deployment of ancillary and supplementary services is different than transitioning a signal from HD to SD in order to comply with the ATSC 1.0 simulcast requirement, we reiterate that there is no obligation that broadcasters provide an HD signal, even if they have chosen to do so in the past. Imposing such a signal quality requirement remains inappropriate, for the same reasons it did six months ago—broadcasters have strong market incentives to maintain HD service, and a decision not to do so would be in response to competitive marketplace conditions. We therefore ''decline to substitute our own judgment for that of local television stations that best know their communities' needs,'' but will continue to monitor broadcasters' deployment of ATSC 3.0 services and evaluate the need for changes to our derogation standard as part of a planned future proceeding.[17]

34. *Definition of a Standard Definition Signal.* Notwithstanding our decision to maintain the existing derogation standard, we adopt our tentative conclusion to modernize § 73.624(b) so that a standard definition signal is defined as one that has a resolution of at least 480i (vertical resolution of 480 lines, interlaced), as supported by multiple broadcast commenters. Despite NAB's suggestion to the contrary, the record provides no evidence that clarifying and modernizing the definition of a ''standard definition signal'' will place an increased burden on broadcasters. Rather, this change will merely remove an outdated reference to analog television and codify what is universally accepted as the digital resolution of a standard definition broadcast signal. While, as pointed out by BitPath, the 480i resolution standard was adopted over 20 years ago, it is universally utilized by television sets today for displaying standard definition programming. Continued reliance on an obsolete analog broadcasting standard would be an outdated method by which to determine what is an acceptable digital standard definition signal. Further, we conclude that this rule update is fully consistent with the broad initiative the Commission has undertaken the past four years to modernize its rules by removing outdated references that no longer reflect the current media marketplace.

35. *Analogous Services Analysis.* In light of the limited record on this topic and the present lack of clarity concerning the precise Broadcast internet services that broadcasters may offer, we find it is premature to adopt

[14] The number ''480'' identifies a vertical resolution of 480 lines, and the ''i'' signifies an interlaced resolution.

[15] In general, the 1996 Act seeks ''[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.'' More specifically, the 1996 Act gives the Commission discretion to determine, in the public interest, whether to permit broadcasters to offer ancillary and supplementary services.

[16] 83 FR 4998 (Feb. 2, 2018), 84 FR 60350 (Dec. 20, 2017).

[17] In the Spring of 2022, the Commission expects to open a proceeding to evaluate the sunsetting of certain ATSC 3.0 technical provisions. Separately, the Commission has stated that it will consider as part of a future proceeding the continued necessity of the ATSC 1.0 simulcasting requirement, which does not sunset. As part of a future proceeding, based on the development of the ATSC 3.0 marketplace, we expect likewise to determine whether to reevaluate our derogation standard. While we have elected to maintain our current derogation standard at this time, we continue to ''expect that the fundamental use of the 6 MHz DTV license will be for the provision of free over-the-air television service.''

a presumption that certain Broadcast internet services are or are not analogous to any other service regulated by the Commission. For the same reasons, we decline to adopt a de minimis service threshold under which ancillary and supplementary services might be exempted from the need to comply with the regulations of an analogous service otherwise regulated by the Commission.

36. In reaching both of these conclusions, we agree with NCTA and CTIA that, at this initial stage in the development of Broadcast internet services, the Commission should continue to evaluate whether or not a service is analogous to other regulated services on a case-by-case basis. While we do not foreclose adopting specific indicia of whether a service is or is not likely to be found to be analogous at some future point, we must first gain a better understanding of how Broadcast internet services ultimately evolve in the marketplace. While, as argued by PMG, it may in fact end up being the case that Broadcast internet services will be provided only on a one-way, one-to-many basis, as is the case with traditional video broadcast services, without knowing the precise services broadcasters will offer we cannot universally conclude that such services are inherently not analogous to any other service regulated by the Commission.[18] We also agree with commenters that it is premature to adopt a presumptive or de minimis threshold under which ancillary and supplementary services otherwise akin to other regulated services would be found not to be analogous.[19]

37. Though we decline to adopt additional rules at this time, we recognize that broadcasters may continue to seek clarification from the Commission, from time to time, about whether a particular service would be analogous to another, or whether specific broadcast rules would apply. Finally, we will continue to monitor the marketplace and provide any necessary clarification in the future once both broadcasters and the Commission know the type of Broadcast internet services that may be deployed and offered to consumers.

38. *Other proposals. Low Power Television.* We decline to adopt any of the proposals by low power television and translator (LPTV) station representatives and others to change our LPTV service rules in this proceeding. In addition to seeking comments on the ancillary and supplementary service fee and derogation of service issues, the *NPRM* generally sought comment on the provision of Broadcast internet services by LPTV stations and what steps, if any, the Commission should take to facilitate the provision of such services by LPTV stations. In response, LPTV groups and interested parties, such as ARK, ATBA, Edge Spectrum, Evoca, NRB, NTA, Spectrum Evolution, and One Ministries, proposed a wide range of changes to the rules governing LPTV service. Among other things, these proposals include: Equalizing LPTV interference protection with that of full power and Class A TV stations (essentially eliminating LPTV's secondary status); creating a path for certain LPTV stations to attain primary status; lifting certain restrictions on LPTV service; granting blanket construction permit and license extensions for LPTV stations seeking to build ATSC 3.0 facilities; abolish the ATSC 3.0 consumer education requirement for silent and newly built LPTV stations, changing aspects of the interference rules; and changing aspects of the Commission's distributed transmission systems (DTS) rules.

39. We find that all of these proposals, many of which call for sweeping changes to the nature of LPTV service or translator service specifically, are insufficiently related to Broadcast internet and are thus beyond the scope of this proceeding. We note, however, that all LPTV stations transitioning to digital service are eligible to request a one-time, six-month extension of their construction permit, and that we will continue to consider requests to extend LPTV licenses pursuant to the equity and fairness provision of section 312(g) of the Act on a case-by-case basis.[20] Further, pursuant to our existing rules, LPTV stations that are unable to air the required ATSC 3.0 consumer education notifications because they not operational (*i.e.,* silent or newly constructed) may seek a waiver of the Commission's notice requirement from the Media Bureau.[21] Finally, we note that the proposals to allow LPTV stations to use DTS and to protect LPTV stations from full power DTS service are presently being considered in the DTS proceeding.

40. *Retransmission Consent. MVPD Carriage of Broadcast internet Services.* We likewise decline to interpret our retransmission consent rules in the context of this proceeding. NCTA asks us to clarify that a broadcaster's use of retransmission consent to negotiate for carriage of Broadcast internet services provided by a consortium of non-commonly owned broadcasters in the same market is prohibited by the bar on joint or coordinated retransmission consent negotiations. NAB opposes this proposal as premature, urging us ''to reject, now for the third time, NCTA's efforts to impose restraints on negotiations in the absence of any demonstration of real world market failure.'' [22] We decline to address this

[18] Pearl also requests that the Commission ''clarify broadly that broadcast television regulations do not apply to broadcast internet services.'' For the same reasons discussed above, we are unable to conclude on a blanket basis, as requested by Pearl, that *all* broadcast television rules do not apply to Broadcast internet services. While as a general matter we envision that many broadcast television rules (such as those related to children's television or indecency, and, as discussed by Pearl, our rules on attribution) would not apply to Broadcast internet services, others (such as technical rules governing station operations) may still be applicable. We note that our analysis in the *Declaratory Ruling* was conducted solely in the context of evaluating our media ownership and attribution rules and the applicability of those rules to the leasing of excess broadcast television spectrum to a third party, including another broadcaster, for the provision of ancillary and supplementary services.

[19] NCTA maintains that the plain language of section 336(b) of the 1996 Act does not permit a de minimis exemption, and no commenters disagree.

[20] We note that the Commission intended that the LPTV exemption from the local simulcasting requirement would help ensure that analog LPTV/translator stations and stations that have been displaced due to the post-incentive auction repacking process were not forced to build both an ATSC 1.0 and an ATSC 3.0 facility. We also note that under section 312(g) of the Communications Act of 1934, as amended (the Act), if a station fails to transmit a broadcast signal for any consecutive 12-month period its license automatically expires at the end of that period. However, under that section a licensee may request an extension of its license if doing so would ''promote equity and fairness.'' The Commission has exercised its discretion under section 312(g) to extend or reinstate a station's expired license ''to promote equity and fairness'' only in limited circumstances where a station's failure to transmit a broadcast signal is due to compelling circumstances that were beyond the licensee's control. The Commission has stated that it would consider extensions in cases where stations were forced to remain dark for more than 12 months by the repack process. The Media Bureau will continue to consider such relief for LPTV stations impacted by the repack.

[21] Stations should file requests for waiver as a Legal STA in the Commission's Licensing and Management System (LMS). All waiver requests will be evaluated on a case-by-case basis and must include the following information: (1) An explanation describing why the station is unable to comply with the existing consumer education requirements; (2) an alternative but comparable means the station will use to notify viewers of the station's new channel or if the station has previously not been operational (*i.e.,* is newly built) why notice would not be in the public interest; and (3) how grant of the waiver request complies with the Commission's general waiver standard. A station may propose to provide alternative notification to viewers through, for example, local newspaper, radio, other in-market television stations, and/or digital and social media.

[22] Although we note that NCTA's request is more narrowly focused than NAB suggests, we nonetheless agree that retransmission consent issues are not relevant to this proceeding.

issue, finding it beyond the scope of this proceeding.[23]

41. *Retransmission Consent Agreements Including Ancillary and Supplementary Services.* We also reject NTCA's proposal that we exempt broadcasters from all ancillary and supplementary service fees if they provide ancillary and supplementary services at no additional charge to unaffiliated MVPDs with which they have an existing retransmission consent agreement. No commenters addressed this proposal. We note that ancillary and supplementary services that are solely being offered free of charge do not generate revenue and, therefore, are not subject to the ancillary and supplementary services fee.

42. *Procedural Matters. Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM* in this proceeding. The Commission sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. We received no comments specifically directed toward the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

43. *Need for, and Objective of, the Report and Order.* The Commission seeks to promote and preserve free, universally available, local broadcast television by providing a clear regulatory landscape that permits licensees the flexibility to succeed in a competitive market and incentivizes the most efficient use of prime spectrum. We undertook this proceeding to ensure that our rules, most over 20 years old, will help foster the introduction of new Broadcast internet services and the efficient use of existing television broadcast spectrum under the new ATSC 3.0 standard. In this Report and Order, we therefore conclude that ancillary and supplementary (A&S) fees should be calculated based on the gross revenue received by the broadcaster, without regard to the gross revenue of an unaffiliated third party, such as a spectrum lessee; should retain the existing standard of derogation of broadcast service, but amend the wording of the rules to eliminate the outdated reference to analog television; and should reaffirm that noncommercial educational television broadcast stations (NCEs) may offer Broadcast internet services. We also reinterpret the application of § 73.621 of our rules to permit noncommercial educational stations (NCEs) to devote the substantial majority of their spectrum not just to free over-the-air television but also ancillary and supplementary services; lower the ancillary and supplementary service fee for certain NCE services; and clarify that NCEs may offer limited Broadcast internet services to donors without transforming those donations into feeable ancillary and supplementary service revenue. With these changes, we seek to clarify the regulatory landscape in order to foster the efficient and robust use of broadcast spectrum capacity for the provision of Broadcast internet services consistent with statutory directives.

44. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* There were no comments filed in response to the IRFA.

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

46. The Chief Counsel did not comment in response to the proposed rules in this proceeding.

47. *Description and Estimate of the Number of Small Entities to Which Rules Will Apply.* The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 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. Below, we provide a description of such small entities, as well as an estimate of the number of such small entities, where feasible.

48. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of this number, 656 had annual receipts of less than $25 million, 25 had annual receipts ranging from $25 million to $49,999,999, and 70 had annual receipts of $50 million or more. Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

49. Additionally, the Commission has estimated the number of licensed commercial television stations to be 1,374. Of this total, 1,282 stations (or 94.2%) had revenues of $41.5 million or less in 2018, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on April 15, 2019, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission estimates the number of licensed noncommercial educational (NCE) television stations to be 388. The Commission does not compile and does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

50. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive.

51. There are also 387 Class A stations. Given the nature of these services, the Commission presumes that

[23] We note that the *NPRM* indicated that changes to our rules and policies regarding retransmission consent agreements are beyond the scope to this proceeding.

all of these stations qualify as small entities under the applicable SBA size standard. In addition, there are 1,892 LPTV stations and 3,621 TV translator stations. Given the nature of these services as secondary and in some cases purely a ''fill-in'' service, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

52. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* This Report and Order imposes no new reporting, recordkeeping, or compliance requirements.

53. *Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in developing 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 an 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.''

54. Our rules will not impose a negative economic impact on any parties, because they increase opportunities for broadcasters without imposing additional obligations. Indeed, by clarifying the scope of feeable revenue our rule may allow small broadcast entities transitioning to ATSC 3.0 to experience positive economic impacts through partnership with unaffiliated third parties. NCE television stations in particular, both large and small, will experience positive benefits from the decisions made in this item, which will allow them to offer nonprofit, noncommercial, educational Broadcast internet services alongside their television programming as part of the primary use of their spectrum, and which imposes a reduced two and a half percent fee on these services.

55. *Report to Congress.* The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

56. *Final Paperwork Reduction Act Analysis.* This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002 (SBPRA), Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

57. *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 the Order to Congress and the Government Accountability Office, pursuant to 5 U.S.C. 801(a)(1)(A).

58. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 303(r), and 336 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 303(r), and 336, the Report and Order *is adopted*.

59. *It is further ordered* that the Commission's rules *are hereby amended* as set forth in the Final Rules, effective as of 30 days after the date of publication in the **Federal Register**.

60. *It is further ordered* that the Commission will send a copy of the Report and Order in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA).

61. *It is further ordered* that should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 20–145 *shall be terminated* and its docket closed.

List of Subjects in 47 CFR Part 73

Communications equipment, Television.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. Amend § 73.624 by revising paragraphs (b) introductory text and (g) introductory text to read as follows:

§ 73.624 Digital television broadcast stations.

* * * * *

(b) DTV broadcast station permittees or licensees must transmit at least one over-the-air video program signal at no direct charge to viewers on the DTV channel. Until such time as a DTV station permittee or licensee ceases analog transmissions and returns that spectrum to the Commission, and except as provided in paragraph (b)(1) of this section, at any time that a DTV broadcast station permittee or licensee transmits a video program signal on its analog television channel, it must also transmit at least one over-the-air video program signal on the DTV channel. The DTV service that is provided pursuant to this paragraph (b) must have a resolution of at least 480i (vertical resolution of 480 lines, interlaced).

* * * * *

(g) Commercial DTV licensees and permittees, and low power television, TV translator and Class A television stations DTV licensees and permittees, must annually remit a fee of 5 percent of the gross revenues derived from all ancillary and supplementary services, as defined by paragraph (b) of this section, which are feeable, as defined in paragraphs (g)(1)(i) and (ii) of this section. Noncommercial DTV licensees and permittees must annually remit a fee of 5 percent of the gross revenues derived from all ancillary and supplementary services, as defined by paragraph (b) of this section, which are feeable, as defined in paragraphs (g)(1)(i) and (ii) of this section, except that such licensees and permittees must annually remit a fee of 2.5 percent of the gross revenues from such ancillary or supplementary services which are nonprofit, noncommercial, and educational.

* * * * *

[FR Doc. 2020–28615 Filed 2–22–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 234

[DOCKET No. FRA–2018–0096, Notice No. 3]

RIN 2130–AC72

State Highway-Rail Grade Crossing Action Plans; Correction

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Correcting amendment.

SUMMARY: On December 14, 2020, FRA published a final rule amending FRA's grade crossing safety standards. In preparing the final rule for publication, an error was made that resulted in a cross-reference to the wrong paragraph. FRA is correcting that inadvertent error.

DATES: Effective on February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Kathryn Gresham, Attorney Adviser, U.S. Department of Transportation, Federal Railroad Administration, Office of the Chief Counsel (email: *kathryn.gresham@dot.gov,* telephone: 202–493–6063).

SUPPLEMENTARY INFORMATION: In § 234.11 of FRA's December 14, 2020, final rule requiring States and the District of Columbia to develop and implement highway-rail grade crossing action plans, paragraph (d) erroneously referenced paragraph (d)(2) for a list of 10 States required to submit their updated highway-rail grade crossing action plans and implementation reports electronically through FRA's website in Portable Document Format (PDF). 85 FR 80648, 80660. The referenced list is actually contained in paragraph (c)(3) of § 234.11; there is no paragraph (d)(2) in § 234.11. Therefore, FRA is issuing this correction amending paragraph § 234.11(d) to refer to the actual regulatory provision (§ 234.11(c)(3)) that contains the list of 10 States required to submit their updated highway-rail grade crossing action plans and implementation reports to FRA. FRA is proceeding directly to a final rule as it finds public notice and comment to be unnecessary per the ''good cause'' exemption in 5 U.S.C. 553(b)(3)(B) for this clearly inadvertent error.

List of Subjects in 49 CFR Part 234

Highway safety, Penalties, Railroad safety, Reporting and recordkeeping requirements, State and local governments.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 234 of chapter II, subtitle B of title 49, Code of Federal Regulations, with the following correcting amendment:

PART 234—GRADE CROSSING SAFETY

■ 1. The authority citation for part 234 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20152, 20160, 21301, 21304, 21311; Sec. 11401, Div. A, Pub. L. 114–94, 129 Stat. 1679 (49 U.S.C. 22501 note); and 49 CFR 1.89.

■ 2. In § 234.11, revise paragraph (d) to read as follows:

§ 234.11 State highway-rail grade crossing action plans.

* * * * *

(d) *Electronic submission of updated Action Plan and implementation report.* Each of the 10 States listed in paragraph (c)(3) of this section shall submit its updated highway-rail grade crossing action plan and implementation report electronically through FRA's website in PDF form.

* * * * *

Issued in Washington, DC.

Brett A. Jortland,

Acting Chief Counsel.

[FR Doc. 2021–03229 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 210205–0012]

RIN 0648–BJ50

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Salmon Bycatch Minimization

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

ACTION: Final rule.

SUMMARY: This rule implements salmon bycatch minimization measures to minimize incidental take of Endangered Species Act-listed salmon by vessels in the Pacific Coast groundfish fishery. The rule establishes additional management tools to minimize incidental Chinook and coho salmon bycatch to keep fishery sectors within guidelines, establishes rules to allow industry to access the Chinook salmon bycatch reserve, and creates Chinook salmon bycatch closure thresholds for the trawl fishery. This rule fulfills the terms and conditions of a 2017 National Marine Fisheries Service Biological Opinion. This rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Pacific Coast Groundfish Fishery Management Plan, and other applicable laws, including the Endangered Species Act.

DATES: This final rule is effective March 25, 2021.

ADDRESSES: This rule is accessible via the Office of the Federal Register website at *https://www.federalregister.gov/.* Background information and documents, including a Biological Opinion and a Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) (Analysis), which addresses the statutory requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Executive Order 12866, and the Regulatory Flexibility Act (RFA), are available at the NMFS West Coast Region website at *https://www.fisheries.noaa.gov/region/west-coast* and at the Pacific Fishery Management Council's (Council) website at *http://www.pcouncil.org.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070. Attn: Brian Hooper, and to *www.reginfo.gov/public/do/PRAMain.*

FOR FURTHER INFORMATION CONTACT: Brian Hooper, phone: (206) 526–6117, or email: *brian.hooper@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The purpose of this final rule is to minimize interactions between Endangered Species Act (ESA)-listed salmon species and Pacific Coast groundfish fishing gear. On the West Coast, vessels fishing under the Pacific Coast Groundfish Fishery Management Plan (FMP) use gear types (*e.g.* midwater and bottom trawl, fixed gear, and hook-and-line) that interact with listed Evolutionary Significant Units (ESUs) of coho and Chinook salmon. The seasonality and geographic extent, including fishing depth and north/south distribution of the different target strategies and gear types, result in

different effects on different ESUs of these salmonids.

On December 11, 2017, NMFS issued a Biological Opinion on the impact of the NMFS authorization of the groundfish fishery on ESA-listed salmonids (see **ADDRESSES** for electronic access information). The Incidental Take Statement (ITS) in the Biological Opinion sets forth terms and conditions. Compliance with those terms and conditions provides an exemption to the prohibition on take of listed species in Section 9 of the ESA. The components of the Biological Opinion are summarized in the proposed rule for 2019–20 Pacific Coast groundfish harvest specifications and management measures (83 FR 47416; September 19, 2018). NMFS and the Council implemented a number of ITS terms and conditions in the final rule for 2019–20 Pacific Coast groundfish harvest specifications and management measures (83 FR 63970; December 12, 2018).

To address the remaining terms and conditions (2.b and 3.a), the Council developed new incidental salmon bycatch minimization tools to allow for timely inseason management of salmon bycatch (term and condition 2.b). The Council also developed regulations regarding the Chinook salmon bycatch reserve and its use (term and condition 3.a).

The Council evaluated the Biological Opinion and analyzed an action to amend the regulations implementing the FMP to address ESA-listed salmon bycatch in the fishery at its November 2018, April 2019, September 2019, and November 2019 meetings. The Council recommended a preferred alternative at its September 2019 meeting and took final action in November 2019. The Council deemed the proposed regulations consistent with and necessary to implement this action in a June 2, 2020, letter from Council Chairman Phil Anderson to NMFS Regional Administrator Barry Thom. NMFS amends the regulations for the Pacific Coast groundfish fishery at 50 CFR part 660 through this final rule to incorporate the Council's recommendation and implement the terms and conditions set forth in the 2017 NMFS Biological Opinion. Additional discussion of the background and rationale for the Council's development of changes to the regulations is included in the proposed rule for this action (85 FR 66519; October 20, 2020) and is not repeated here. Detailed information, including the supporting documentation the Council considered while developing these recommendations, is available at the Council's website, *http://www.pcouncil.org.*

Description of Existing Salmon Bycatch Management in the Pacific Coast Groundfish Fishery

For purpose of analysis in the Biological Opinion, NMFS divided the groundfish fishery into two groups or ''sectors'' for the purposes of estimating and analyzing ESA-listed salmon bycatch. This rule will refer to these groups as the whiting sector and non-whiting sector. The whiting sector includes the Pacific Coast treaty Indian vessels that target whiting, as well as non-tribal vessels in the mothership (MS) Coop Program, Catcher/processor (C/P) Coop Program, and Pacific whiting Shorebased individual fishing quota (IFQ) fishery that target whiting. In this rule, the MS Coop Program, the C/P Coop Program and the Pacific whiting IFQ fishery are referred to as ''components'' of the whiting sector. The non-whiting sector includes the Pacific Coast treaty Indian vessels that target Pacific coast groundfish species other than whiting, as well as non-tribal vessels in the Shoreside trawl, fixed gear, and recreational fisheries that are not accounted for in pre-season salmon modeling. The recreational fisheries not accounted for in pre-season salmon modeling are those occurring outside of the open salmon seasons and the Oregon longleader fishery.

NMFS currently manages Chinook salmon bycatch to guidelines of 11,000 fish for the whiting sector, and 5,500 fish for the non-whiting sector. Fishery sectors may access a 3,500 Chinook salmon bycatch ''reserve'' upon reaching their Chinook bycatch guideline. NMFS automatically closes all groundfish fisheries once the guidelines plus the reserve are reached (*i.e.,* a total of 20,000 Chinook salmon are caught as bycatch). For accounting purposes, Chinook salmon bycatch accrues to either the whiting sector or non-whiting sector. NMFS monitors Chinook salmon bycatch inseason and will (1) close the whiting sector if that sector catches its guideline limit and the full reserve amount, (2) close the non-whiting sector if that sector catches its guideline limit and the full reserve amount, or (3) close either the whiting or non-whiting sector if either sector reaches its guideline limit when the other sector has already taken the reserve amount (83 FR 63970; December 12, 2018).

NMFS previously established two tools to manage Chinook and coho salmon bycatch in the groundfish fishery through prior rulemakings. These two tools are a Bycatch Reduction Area (BRA) for midwater trawl vessels at the 200-fathom (fm) (366-meter (m)) depth contour (83 FR 63970, December 12, 2018), and Block Area Closures (BACs) for bottom trawl vessels from shore to the 250-fm (457-m) depth contour (84 FR 63966, November 19, 2019) off Oregon and California. The Council may recommend NMFS implement BRAs and BACs to minimize salmon bycatch through routine management measures, as described in the FMP and regulation at 50 CFR 660.60(c). Additional discussion of existing salmon bycatch management in the groundfish fishery is included in the proposed rule (85 FR 66519; October 20, 2020) and is not repeated here.

Additional Management Tools To Minimize ESA-Listed Salmon Bycatch

This final rule implements additional management tools beyond BRAs and existing BACs, making these tools available to minimize incidental Chinook and coho salmon bycatch to keep fishery sectors within guidelines. These additional tools include: (1) BACs for midwater trawl fisheries; (2) an extension of BACs seaward of the 250-fm (457-m) depth contour for bottom trawl fisheries; and (3) a selective flatfish trawl (SFFT) gear requirement for bottom trawl vessels. These additional management tools apply only to non-tribal fisheries. NMFS expects the tribal fishery managers may implement area management measures to minimize salmon bycatch, as necessary.

When deciding whether to recommend BACs or SFFT gear requirements for NMFS to implement, consistent with the FMP, the Council will consider environmental impacts, including economic impacts, and public comment via the Council process. Depending on the circumstances, NMFS may implement BACs or SFFT gear requirements for a defined period of time, for example, a few months or the remainder of the fishing year, or maintain the closure for an indefinite period of time, for example, until reopened by a subsequent action. NMFS may implement one or more BACs or BACs with SFFT gear requirements, and the size of the BACs or BACs with SFFT gear requirements can vary. A **Federal Register** document will announce the geographic boundaries (described with coordinates in codified regulations) of one or more BACs or BACs with SFFT gear requirements, the effective dates, applicable gear/fishery restrictions, as well as the purpose and rationale. NMFS will also disseminate this information on BACs or BACs with SFFT gear requirements through public

notices and posting on the West Coast Region website (see **ADDRESSES** for electronic access information).

Block Area Closures for Midwater Trawl Fisheries

This final rule makes BACs available as a routine management measure to minimize salmon bycatch in the limited entry midwater trawl fisheries in the whiting and non-whiting sectors and prevent bycatch from exceeding the guidelines. BACs are size variable spatial closures bounded by latitude lines, defined at 50 CFR 660.11, and depth contour approximations defined at 50 CFR 660.71 through 660.74 ((10 fm (18-m) through 250 fm (457-m)), and § 660.76 (700 fm (1,280-m)). Amendment 28 to the FMP (84 FR 63966; November 19, 2019) established BACs for bottom trawl fisheries. This final rule will prohibit midwater trawl fishing within the BAC boundaries. BACs could be implemented or modified in the Exclusive Economic Zone (EEZ) off Oregon and California for vessels using midwater trawl gear. BACs may be implemented in the EEZ off Washington shoreward of the boundary line approximating the 250-fm (457-m) depth contour for vessels using midwater trawl gear. The Council decided to not include extending the available BAC boundary for vessels fishing with midwater trawl gear beyond 250-fm (457-m) off Washington as part of its recommendation due to the limited operation of midwater trawl vessels in that area.

The BAC tool will allow the Council to recommend and NMFS to implement size variable area closures as a routine management measure to address specific areas of high salmon bycatch rather than large fixed closure areas (*e.g.,* BRA). BACs will allow the midwater trawl fishery to remain open in areas outside of the BACs.

This final rule does not implement specific individual BACs. BACs cannot be used to close an area to any type of fishing other than groundfish bottom or midwater trawling. This rule allows NMFS to close or reopen BACs preseason (*e.g.,* before the start of the fishing year or before the May 15 start of the primary season for Pacific whiting fishery) or inseason. The approach is consistent with existing ''routine inseason'' frameworks already in the FMP and regulations. If good cause exists under the Administrative Procedure Act to waive notice and comment, a single **Federal Register** document will announce routine inseason BACs approved by NMFS.

Extension of Block Area Closures for Bottom Trawl Fisheries

This final rule allows NMFS to take routine inseason action to implement BACs seaward of the boundary line approximating the 250-fm (457-m) depth contour to the existing boundary line approximating the 700-fm (1,280-m) Essential Fish Habitat Conservation Area closure for bottom trawl fisheries. The boundary line approximating the 700-fm (1,280-m) depth contour is described at 50 CFR 660.76. This extension of BACs only applies south of 46°16′00″ N latitude (in the EEZ off Oregon and California). This final rule allows NMFS to implement and modify BACs, as a routine management measure, in open areas beyond the 250-fm (457-m) boundary in order to minimize incidental salmon bycatch. While salmon bycatch rates are generally low in depths greater than 250-fm (457-m) for trawl fisheries (Section 2.15 of the Analysis—see **ADDRESSES**), salmon distribution is known to extend into those depths. Therefore, the Council recommended, and NMFS is implementing, this extension so as to not constrain management of salmon bycatch in the bottom trawl fishery to the boundary line approximating the 250-fm (457-m) depth contour as the seaward boundary for a BAC. This final rule does not implement individual BACs for bottom trawl fisheries.

Selective Flatfish Trawl Requirement for Bottom Trawl Fisheries

The use of SFFT gear is expected to reduce bycatch of Chinook salmon (85 FR 66519; October 20, 2020). This final rule makes an SFFT gear requirement available as a routine management measure to address ESA-listed salmon bycatch in the groundfish bottom trawl fisheries. The requirement to fish with SFFT gear could be used in conjunction with a BAC. In other words, if the Council were to recommend and NMFS were to implement a BAC for bottom trawl, it could allow bottom trawl vessels to continue fishing in the BAC if vessels used SFFT gear. The Council recommended, and NMFS is implementing, this action because it provides flexibility for those vessels with SFFT gear.

This final rule does not implement individual SFFT gear requirements. The Council could recommend SFFT gear requirements in the future. This rule allows NMFS to implement SFFT requirements preseason or inseason. If consistent with the FMP, Magnuson-Stevens Act, and other applicable law, NMFS may approve and implement a Council recommended SFFT gear requirement through a routine management measure, as described in the FMP and regulation at 50 CFR 660.60(c).

This final rule makes changes to the declaration report to allow NMFS Office of Law Enforcement (OLE) to sufficiently monitor and enforce SFFT gear requirements. In the list of potential gear type or sector/monitoring type declarations found at 50 CFR 660.13(d)(4)(iv)(A), NFMS added a declaration for ''Limited entry selective flatfish trawl, shorebased IFQ'' and modified the existing ''Limited entry bottom trawl, shorebased IFQ, not including demersal trawl'' declaration to clarify that selective flatfish trawl gear is not included (*i.e.,* ''Limited entry bottom trawl, shorebased IFQ, not including demersal trawl or selective flatfish trawl'').

Rules for Access to the Chinook Salmon Reserve

This final rule establishes the rules or circumstances in which the whiting and non-whiting sectors can access the Chinook salmon bycatch reserve. As described in the Biological Opinion, access to the reserve for additional Chinook salmon bycatch above the sector's guideline is not guaranteed. The Council recommended that a sector may only access the reserve if NMFS has implemented a management measure to minimize Chinook salmon bycatch in that sector prior to it reaching its Chinook salmon bycatch guideline. The Council recommended, and NMFS is implementing, rules for accessing the reserve that hold the whiting and non-whiting sectors accountable for minimizing bycatch.

The Council recommended, and NMFS is implementing, that the non-whiting sector may only access the reserve if NMFS has implemented a routine management measure (*i.e.* BRA, BAC, or a SFFT gear requirement) to minimize Chinook salmon bycatch in the non-whiting sector prior to it reaching its Chinook salmon bycatch guideline. This requirement may be satisfied where NMFS has implemented a BAC for bottom trawl or midwater trawl fisheries, or an SFFT gear requirement for bottom trawl fisheries.

In contrast to the non-whiting sector, the Council recommended, and NMFS is implementing, that each component of the whiting sector (*i.e.* the MS Cooperative Program, C/P Cooperative Program, and the Pacific whiting Shorebased IFQ fishery) may access the reserve only if NMFS has implemented a management measure to minimize Chinook salmon bycatch for that

component. This requirement may be satisfied through the implementation of a BRA, BAC, or Salmon Mitigation Plan (SMP) for the applicable component. Those vessels with an approved SMP will have access to the reserve without further action by NMFS. The Council recommended, and NMFS is implementing, that vessels not party to an SMP may access the reserve only if NMFS has implemented a routine management measure (*e.g.,* BRA or BAC) to minimize Chinook salmon bycatch for those vessels.

As part of the rules for access to the reserve, the Council recommended, and NMFS is implementing, automatic fishery closure thresholds. The Council may recommend a routine management measure (*e.g.,* BRA, BAC, or SFFT gear requirement) to minimize Chinook salmon bycatch in the groundfish fishery. If NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch in the non-whiting sector, the non-whiting sector will close once the sector exceeds its Chinook salmon bycatch guideline of 5,500 Chinook salmon. NMFS will automatically close the MS Coop Program, C/P Coop Program, and the Pacific whiting IFQ fishery if NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch (*i.e.* BRAs or BACs) for that specific component of the whiting sector prior to the whiting sector exceeding its Chinook salmon bycatch guideline of 11,000 Chinook salmon. Those vessels with an approved SMP will be exempt from the 11,000 Chinook salmon bycatch guideline closure threshold condition that requires NMFS to close a specific component of the whiting sector if NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch. Therefore, these vessels will have access to the reserve without further action by NMFS. If the whiting sector has caught 11,000 Chinook salmon, NMFS will close the entire whiting sector, including those with an approved SMP, if the non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve. Table 1 summarizes the automatic fishery closure thresholds that NMFS is implementing as part of the reserve access rules.

TABLE 1—SUMMARY OF FISHERY CLOSURE THRESHOLDS FOR RESERVE ACCESS RULES

Close:	If Chinook salmon catch exceeds:	And:
Whiting sector	11,000 fish in the whiting sector	(1) NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.
Non-whiting sector	5,500 fish in the non-whiting sector	(1) NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The whiting sector has caught its 11,000 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.

Salmon Mitigation Plans for Pacific Whiting Sector

This final rule allows a Pacific whiting sector cooperative or group of vessels to develop a SMP for NMFS approval. The SMP is a voluntary agreement by a cooperative or group of vessels in the Pacific whiting fishery MS Coop Program, C/P Coop Program, or Pacific whiting Shorebased IFQ fishery to manage Chinook salmon bycatch.

NMFS expects the SMP to promote reductions in Chinook salmon bycatch relative to what would have occurred in the absence of an SMP because the SMP will require bycatch minimization measures for all vessels party to that SMP. Therefore, NMFS approval of an SMP will give those vessels party to the SMP access to the Chinook salmon bycatch reserve. Additionally, vessels that are party to an approved SMP will have access to the reserve regardless of NMFS implementing other inseason measures to minimize bycatch, such as BACs. Vessels that are party to an approved SMP may fish into the reserve when the non-whiting sector has not used the full reserve and NMFS has closed the whiting sector on the basis that it has reached 11,000 Chinook bycatch.

Salmon Mitigation Plan Parties

Participants in the Pacific whiting Shorebased IFQ fishery may form groups around common goals such as managing bycatch. MS and C/P vessels receive permits from NMFS to operate as cooperatives. While it does not receive permits from NMFS, the Shorebased Whiting Cooperative also operates around common goals such as bycatch management. Under this final rule, groups of vessels, or cooperatives, may create and submit SMPs to NMFS for approval. Individual vessels are not eligible to submit an SMP for approval. After NMFS approves an SMP, any changes in the membership of vessels party to the SMP, including a vessel leaving an SMP or adding a vessel to an SMP, must be submitted to NMFS for approval though an SMP amendment.

In recommending the SMP measures, the Council provided, and NMFS is implementing, an additional way to allow groups of Pacific whiting vessels to access the reserve. The Council limited SMP submissions to cooperatives or other groups of vessels because of concerns regarding the enforceability of plans from individual whiting vessels. The Council noted that other groups would have the potential to employ a robust management system similar to that employed by the existing whiting cooperatives. The Council did not recommend a minimum number of vessels in an SMP. In order to improve the clarity of the regulations and ensure the robust management and accountability system envisioned by the Council, NMFS is implementing a three vessel minimum for an approved SMP.

Salmon Mitigation Plan Required Contents

The SMP must detail how those vessels party to the SMP will avoid and minimize Chinook salmon bycatch, including the tools they will employ. The SMP must contain the names and signatures of the owner or representative for each vessel that is party to the SMP. The SMP must include the vessel name and United States Coast Guard (USCG) vessel registration number (as given on USCG Form 1270) or state registration number, if no USCG documentation, of each vessel that is party to the SMP. The SMP must designate a representative to serve as the SMP point of contact with NMFS and the Council, and to submit the SMP proposal, any SMP amendments, and post-season report. The SMP must also contain a compliance agreement in which all parties to the SMP agree to

voluntarily comply with all the provisions of the SMP.

Salmon Mitigation Plan Review and Approval

Consistent with the dates for MS and C/P cooperative permit and agreement submission, applicants must submit proposed SMPs to NMFS between February 1 and March 31. An SMP will expire on December 31 of the year in which NMFS approved it. Given the timing of this rulemaking, NMFS may offer flexibility by extending the SMP proposal deadline for 2021. NMFS will announce any flexibility in the 2021 SMP submission deadline via public notice.

NMFS will approve a proposed SMP if the proposal contains the required contents and is reasonably expected to reduce Chinook salmon bycatch. NMFS will disapprove a proposed SMP if it does not contain the required contents, or is not reasonably expected to reduce Chinook salmon bycatch. If NMFS makes an initial administrative determination (IAD) to disapprove the proposed SMP, the applicant may appeal. Any appeal under the SMP program will be processed by the NOAA Fisheries National Appeals Office.

After the SMP is approved, the designated SMP representative must submit any changes to the SMP, including any changes in which vessels are party to the SMP, as an amendment to the SMP for approval by NMFS. An amendment to an approved SMP may be submitted to NMFS at any time during the year in which the SMP is valid. NMFS will review the amendment to ensure it contains the required SMP contents. An amendment to an approved SMP will be effective upon written notification of approval by NMFS to the designated SMP representative. If NMFS makes an IAD to disapprove the proposed SMP amendment, the applicant may appeal. Any appeal under the SMP program will be processed by the NOAA Fisheries National Appeals Office.

Inseason SMP Monitoring and Evaluation

Those vessels party to the SMP will commit to voluntarily comply with the provisions of the SMP. The Council will evaluate Chinook salmon bycatch levels and adherence to SMP provisions by those vessels party to the SMP, as needed, during the inseason review process at Council meetings. In recommending and implementing a routine management measure to minimize Chinook salmon bycatch, the Council and NMFS will specifically state whether the measure will apply to vessels party to an approved SMP. The Council may choose to exempt vessels party to an approved SMP from any additional salmon bycatch minimization measure recommendation. If the SMP measures are not sufficient in minimizing salmon bycatch, as determined by the Council during inseason review at regular Council meetings, the Council could recommend that NMFS implement additional salmon bycatch minimization measures (*i.e.,* BRAs or BACs) that apply to those vessels party to an approved SMP even if those vessels had access to the reserve through the SMP. For example, NMFS may implement a BAC for all whiting sector vessels, including those with an approved SMP, if the whiting sector were approaching the Chinook salmon bycatch guideline and the Council had determined SMP measures were not sufficiently minimizing salmon bycatch.

By using the existing declarations and procedures, as well as a list of vessels party to an approved SMP, NMFS OLE anticipates it can sufficiently monitor for unauthorized fishing vessels within the boundaries of a BAC that exempts vessels with an approved SMP.

Post-Season Reporting

The Council also recommended, and NMFS is implementing, an SMP post-season report as a necessary component of the SMP measures. The post-season report will allow NMFS and the Council to monitor and assess Chinook salmon bycatch minimization efforts by vessels party to the SMP. This post-season report, and specifically information on the effectiveness of the bycatch avoidance measures, will also help NMFS comply with term and condition 6.a.iii of the Biological Opinion. This term and condition requires that NMFS produce an annual report summarizing bycatch reduction measures used and their effectiveness.

The designated SMP representative will provide an annual post-season report to the Council and NMFS no later than March 31 of the year following the year in which the SMP was valid. The report will describe the group's use of Chinook salmon bycatch avoidance measures and an evaluation of the effectiveness of those measures. The report will also describe any amendments to the terms of the SMP that NMFS approved during that fishing year and the reasons that the group amended the SMP.

Pacific whiting cooperatives currently produce an annual cooperative report documenting the cooperative's catch, bycatch data, and any other significant activities undertaken by the cooperative during the year. For efficiency, the SMP post-season report could be combined with this annual cooperative report.

Trawl Fishery Closures in Response to Chinook Salmon Bycatch

This final rule establishes automatic actions that will close all trawl fisheries if Chinook salmon bycatch exceeds 19,500 fish in the whiting and non-whiting sectors, and will close non-whiting trawl fisheries if Chinook salmon bycatch exceeds 8,500 fish in the non-whiting sector. The closures ensure that 500 Chinook salmon are available for bycatch in fixed gear and select recreational fisheries, so those fisheries can continue to operate in years of high Chinook salmon bycatch in the trawl fishery. For catch accounting purposes, the Chinook salmon bycatch from Pacific Coast treaty Indian fisheries will count towards the applicable whiting or non-whiting sector bycatch guideline. However, Pacific Coast treaty Indian fisheries will not close until the existing 20,000 Chinook salmon total fishery limit is reached.

This final rule does not change any of the existing closure thresholds established in the 2019–2020 Pacific Coast groundfish harvest specifications and management measures (83 FR 63970; December 12, 2018). The closure thresholds (bycatch guideline plus reserve) for the whiting and non-whiting sectors will remain at 14,500 Chinook salmon for the whiting sector and 9,000 Chinook salmon for the non-whiting sector, and a total closure of all groundfish fisheries at 20,000 Chinook salmon. The Council noted the existing fishery closure thresholds and inseason processes would be sufficient to manage to the Chinook salmon bycatch guidelines. However, the Council also recognized the importance of protecting fixed-gear and recreational fisheries from potential closure in years of high non-whiting trawl Chinook salmon bycatch. Therefore, the Council recommended, and NMFS is implementing, closure thresholds for trawl fisheries. Table 2 summarizes the closure thresholds for trawl fisheries implemented as a result of this final rule.

TABLE 2—SUMMARY OF FISHERY CLOSURES TO IMPLEMENT TRAWL FISHERY THRESHOLDS

Close:	If Chinook salmon catch exceeds:
Non-whiting trawl fisheries.	8,500 fish in the non-whiting sector.

TABLE 2—SUMMARY OF FISHERY CLOSURES TO IMPLEMENT TRAWL FISHERY THRESHOLDS—Continued

Close:	If Chinook salmon catch exceeds:
All trawl fisheries.	19,500 fish in the whiting and non-whiting sectors.

Summary of Groundfish Fishery Closures in Response to Chinook Salmon Bycatch

Table 3 summarizes the groundfish fishery closures in response to Chinook salmon bycatch. The closures described in the table do not apply to Pacific Coast treaty Indian fisheries except for the existing threshold closing all groundfish fisheries, including Pacific Coast treaty Indian fisheries, if Chinook salmon bycatch in the groundfish fishery exceeds 20,000 fish. However, for catch accounting purposes, the Chinook salmon bycatch from Pacific Coast treaty Indian fisheries will count towards the applicable whiting or non-whiting sector bycatch guideline. NMFS will close each component of the whiting sector (Pacific whiting IFQ fishery, MS Coop Program and C/P Coop Program) when Chinook salmon bycatch exceeds 11,000 Chinook salmon if NMFS has not implemented a routine management measure (*i.e.,* BRA or BAC)) to minimize Chinook salmon bycatch for that individual component of the whiting sector. The whiting sector closure at 11,000 Chinook salmon will not apply to those vessels that are parties to an approved SMP, unless the non-whiting sector has caught the entire 3,500 Chinook salmon bycatch reserve.

TABLE 3—SUMMARY OF GROUNDFISH FISHERIES CLOSURES DUE TO CHINOOK SALMON BYCATCH

Implemented with this final rule?	Close:	If Chinook salmon bycatch exceeds:	And:
Yes (reserve access rules)	Whiting sector	11,000 fish in the whiting sector.	(1) NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.
No; previously established (83 FR 63970; December 12, 2018).	Whiting sector	14,500 fish in the whiting sector.	The non-whiting sector has not accessed the Chinook salmon bycatch reserve.
Yes (reserve access rules)	Non-whiting sector	5,500 fish in the non-whiting sector.	(1) NMFS has not implemented a routine management measure to minimize Chinook salmon bycatch OR (2) The whiting sector has caught its 11,000 Chinook salmon guideline and 3,500 Chinook salmon from the bycatch reserve.
Yes (trawl fishery closures)	Non-whiting trawl fisheries (midwater trawl and bottom trawl fisheries under the Shorebased IFQ Program).	8,500 fish in the non-whiting sector.	
No; previously established (83 FR 63970; December 12, 2018).	Non-whiting sector	9,000 fish in the non-whiting sector.	The whiting sector has not accessed the Chinook salmon bycatch reserve.
Yes (trawl fishery closures)	All trawl fisheries (whiting sector and non-whiting trawl fisheries).	19,500 fish in the whiting and non-whiting sector.	
No; previously established (83 FR 63970; December 12, 2018).	All groundfish fisheries	20,000 fish in the whiting and non-whiting sector.	

Definition Correction

This final rule makes a minor technical correction related to the definition of ''Mothership Coop Program'' at § 660.111. An inaccurate amendatory instruction (80 FR 77271, December 14, 2015) resulted in a duplicative definition with an incorrect title. This rule removes the definition for ''Mothership Coop Program or MS Coop Program'', and maintains the definition for ''Mothership (MS) Coop Program or MS sector'' at § 660.111. This change is not substantive, as it removes a redundant definition.

Comments and Responses

NMFS solicited public comment on the proposed salmon bycatch minimization measures (85 FR 66519; October 20, 2020). The comment period ended November 19, 2020. NMFS received seven comment letters: three from industry groups, one from a non-governmental organization, and three from private citizens. One letter noted several small errors or inconsistences in the preamble to the proposed rule. NMFS has addressed those in a separate section below, Clarifications and Corrections to the Preamble of the Propose Rule. The comment letters are available in their entirety from NMFS (see **ADDRESSES**) or at the following web address: *https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0063.*

Comment 1: Three private citizens and one non-governmental organization were supportive of the proposed salmon bycatch minimization measures due to the potential benefits for salmon populations and other species like Southern Resident killer whales.

Response 1: NMFS agrees and is implementing the proposed measures with the final rule.

Comment 2: The proposed rule lacks information regarding the bycatch guidelines and projections for coho salmon bycatch.

Response: The effects of the rule on Chinook and coho salmon overlap. Therefore, NMFS examined these species together in the proposed rule analysis. This rule does not change the coho salmon guidelines. As such, NMFS did not discuss these details in the

proposed rule. NMFS manages coho salmon bycatch to guidelines of 474 fish for the whiting sector, and 560 fish for the non-whiting sector. These guidelines were established in the 2017 NMFS Biological Opinion. For accounting purposes, coho salmon bycatch accrues to either the whiting sector or non-whiting sector. NMFS monitors coho salmon bycatch inseason.

Comment 3: NMFS did not mention any significant alternatives to the bycatch minimization measures in the IRFA of the proposed rule.

Response: Under the RFA, NMFS is required to consider reasonable regulatory alternatives that would minimize the economic impact on affected small entities. NMFS made this consideration, and as documented in the proposed and final rules, concluded there are no significant alternatives to the final rule that would accomplish the stated objectives in a way that would reduce economic impacts of the final rule on small entities.

Comment 4: This rule should put further restrictions on bottom trawling to protect Chinook and coho salmon habitat.

Response: This rule fulfills the terms and conditions of a 2017 NMFS Biological Opinion. This rule establishes additional management tools such as extending BACs for bottom trawl fisheries, which may benefit salmonid habitat. Further measures to protect salmonid habitat are beyond the scope of this action.

Comment 5: Pacific whiting cooperatives should be allowed to incorporate the SMP into the cooperative agreement, as well as the SMP post-season report into the annual cooperative report.

Response: NMFS agrees and will work with the cooperatives to implement this administrative efficiency.

Comment 6: Two industry groups expressed support for implementation of the proposed SMP as a mechanism for groups in the whiting sector to access the Chinook salmon reserve.

Response: NMFS agrees and is implementing the proposed measures with the final rule.

Comment 7: Two industry groups expressed concerns with a provision of the proposed rule that ''no vessel may join or leave an SMP after it is approved''. Under the proposed rule, those vessels party to the SMP would be committed to follow the SMP provisions for the year in which it is approved. The industry groups contend this provision is unnecessarily restrictive, would limit flexibility, and potentially hinder fishery performance. First, they argue that whiting cooperatives are currently allowed under their cooperative agreements and cooperative permits to change vessels participating in the cooperative by submitting an amended cooperative agreement to NMFS. Catcher-processor limited entry trawl permits are also transferable. These flexibilities provide opportunities for fishery participants and cooperatives to optimize participation in the fishery. Second, the industry groups contend unforeseen circumstances might occur requiring a vessel to leave a cooperative or an SMP. This could include a vessel ownership change or cooperative actions against a vessel that is not meeting the requirements of the cooperative. The industry groups recommended that any changes in vessels party to the SMP could occur through an SMP amendment.

Response: NMFS specifically sought comment on this provision in the proposed rule. NMFS proposed this provision to: (1) Maximize the potential salmon conservation benefits of an SMP; (2) prevent vessels that did not follow the SMP provisions throughout the year from receiving the benefit of access into the reserve on the basis of the SMP; and (3) ensure NMFS can sufficiently monitor and enforce a BAC from which vessels party to an approved SMP are exempt.

NMFS agrees with the commenter that the provision could hinder flexible salmon bycatch management in the whiting sector. As such, NMFS did not include this provision in this final rule. NMFS agrees an SMP amendment is an appropriate avenue to document and approve membership changes. The SMP amendment process will give NMFS means to track current SMP membership and ensure NMFS can sufficiently monitor and enforce access to a BAC from which vessels party to an approved SMP are exempt.

If vessels were to join an SMP after it was approved (*i.e.,* mid-fishing year) and receive benefits such as access to salmon bycatch reserve or exemption from further bycatch management requirements, it may be inequitable for the vessels that had been following the SMP provisions throughout the year. However, because the SMP group self-selects its members, it would be the group's choice to make membership changes equitable. While maximum salmon bycatch minimization benefits may be realized when vessels follow bycatch minimization requirements in an SMP for a full fishing year, partial year participation will still provide benefits for salmon bycatch minimization purposes.

NMFS agrees with the need for those vessels party to the SMP to self-manage membership, including the removal of a vessel that is not following the SMP provisions. A vessel leaving an SMP mid-fishing year would not present equity issues, as that vessel would not have automatic access to the reserve once it leaves the SMP. NMFS will be able to track vessels party to the SMP through the SMP amendment process. Per the reserve access rules in this final rule, a salmon bycatch minimization action would need to be implemented prior to a vessel not party to an SMP having access to the reserve. This would provide the conservation benefits for Chinook salmon envisioned by the Council in recommending the reserve access rules.

Comment 8: Voluntary, industry-based areas closures will be more timely and effective than BACs to manage salmon bycatch. Voluntary industry closures are based upon near real-time data and are adaptable to meet current conditions on the fishing grounds. In contrast, a BAC would be implemented on a much slower time frame and could be inconsistent with current fishing conditions. Due to this lag, a BAC could close a fishing area where salmon bycatch is no longer occurring.

Response: NMFS agrees that industry based area closures may be more timely and effective than BACs. NMFS encourages industry to continue such voluntary measures in order to reduce the need for regulatory area-based closures like BACs. Per the 2017 NMFS Biological Opinion, NMFS must manage the fishery to the bycatch guidelines. The Council recommended, and NMFS agrees, that BACs would be a useful management tool to have available should mandatory salmon bycatch minimization measures be necessary.

Comment 9: The extension of BACs deeper than 250 fm is not needed because a long history of fishery data clearly indicates that salmon incidental catch deeper than 250 fm is *de minimis.*

Response: Salmon bycatch rates are generally low in depths greater than 250 fm (457 m) for trawl fisheries (Section 2.15 of the Analysis—see **ADDRESSES**). However, salmon distribution is known to extend into those depths. The extension of BACs for bottom trawl fisheries in this final rule would allow NMFS to implement and modify BACs in areas where salmon bycatch may occur in order to keep the fishery sector within bycatch guidelines.

Comment 10: NMFS will need to enforce BACs which restrict access for vessels without an approved SMP. In addition to VMS tracking and on the water patrols, NMFS could inform the Pacific whiting cooperatives to alert vessels under their structure that do not

have an approved SMP to cease fishing operations within the BAC. The documentation of which vessels are party to an SMP would guide this effort.

Response: NMFS agrees that documentation of vessels that are party to an SMP is critical to the enforcement of BACs that allow access for vessels with an SMP. As such, NMFS will require the vessel name and USCG vessel registration number (as given on USCG Form 1270) or state registration number, if no USCG documentation, of each vessel that is party to the SMP be included in the SMP proposal.

Comment 11: Two commenters noted the need for strong implementation, monitoring, reporting of salmon bycatch minimization measures, including the SMP. In order to maximize the salmon conservation benefits of an SMP, one commenter noted the need for regular in-season and post-season reporting of salmon bycatch, as well as the implementation of effective SMP bycatch reduction tools.

Response: NMFS agrees that strong reporting and monitoring are needed for effective salmon bycatch management. In the SMP post-season report NMFS will require the SMP representative to provide an evaluation of the effectiveness of their avoidance measures in minimizing Chinook salmon bycatch. Salmon bycatch will continue to be monitored by NMFS throughout the fishing year as is required by the 2017 Biological Opinion. Salmon bycatch data is also publically available online in near real-time through the Pacific Fisheries Information Network's Reports Dashboard at *https://reports.psmfc.org/pacfin.* Additionally, the Council reviews salmon bycatch information at each Council meeting and may recommend routine management measures to NMFS, if necessary to keep fishery sectors within the bycatch guidelines. NMFS agrees the bycatch tools in the SMP need effective implementation. NMFS noted in the proposed rule that it expects the SMP to promote reductions in Chinook salmon bycatch relative to what would have occurred in the absence of an SMP because the SMP will require bycatch minimization measures for all vessels party to that SMP. This reduction would occur because the SMP will require bycatch minimization measures for all vessels party to that SMP. In order to clarify how an SMP would be evaluated, consistent with the intent of the Council, NMFS has included in the final rule an additional SMP approval criteria that the SMP must reasonably be expected to reduce Chinook salmon bycatch.

Comment 12: One commenter stated the fishery closure authority provisions previously implemented to fulfill requirements of the 2017 NMFS Biological Opinion are not consistent with guidance and direction provided by the Council to the agency in developing the opinion. The commenter noted the Council did not include, nor think necessary, the closure authorities independently developed by NMFS.

Response: In this final rule, NMFS is not modifying the automatic fishery closure mechanisms previously implemented through the final rule to implement harvest specifications and management measures for the 2019–2020 biennium (83 FR 63970; December 12, 2018). As such, this comment is outside the scope of this action.

Changes From the Proposed Rule

In response to public comments received and in order to provide clarity to the new requirements, NMFS is making four changes to the action as proposed previously.

As detailed in the Comments and Responses section, NMFS will require the vessel name and USCG vessel registration number (as given on USCG Form 1270) or state registration number, if no USCG documentation, of each vessel that is party to the SMP be included in the SMP proposal or any SMP amendment. This requirement is needed to sufficiently enforce BACs that allow access for vessels with an SMP. NMFS is also including a requirement that the SMP proposal include a mailing address for the SMP representative. This will allow NMFS to send the SMP representative correspondence through the mail. These requirement do not change the estimated public reporting burden for the submission of an SMP.

As detailed in the Comments and Responses section, NMFS is not including in the final rule a provision of the proposed rule that ''no vessel may join or leave an SMP after it is approved''. Under that provision, those vessels party to the SMP would have been committed to follow the SMP provisions for the year in which it is approved. Through this final rule, NMFS will allow vessels to join or leave an SMP after it is approved. The SMP representative must submit any membership changes through the SMP amendment process. This change will provide industry with flexibility to manage salmon bycatch and self-select its members, while still providing the conservation benefits for salmon envisioned by the Council in recommending the reserve access rules. The SMP amendment process will allow NMFS to track current SMP membership and ensure NMFS can sufficiently monitor and enforce access to a BAC from which vessels with an approved SMP are exempt.

As detailed in the Comments and Responses section, the proposed rule lacked clarity on how the SMP would be evaluated. In order to meet the objective of the SMP to minimize salmon bycatch, consistent with the Council's intent for this action, NMFS has clarified in the final rule that the SMP must reasonably be expected to reduce Chinook salmon bycatch.

Clarifications and Corrections to the Preamble of the Proposed Rule

The preamble to the proposed rule (85 FR 66519; October 20, 2020) on page 66521 was unclear in describing the ''whiting sector'' and ''non-whiting sector'' with respect to Pacific Coast treaty Indian vessels. The final rule revised these descriptions to clarify that vessels that participate in the Pacific Coast treaty Indian groundfish fisheries are not part of the MS, C/P, or IFQ programs.

Table 2 of the preamble to the proposed rule (page 66523) summarized the closure thresholds for reserve access rules. Table 2 incorrectly stated a closure condition for the non-whiting sector. This table, Table 1 of this final rule, has been revised to clarify that the non-whiting sector will close at 5,550 Chinook salmon if the whiting sector has caught its 11,000 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.

In the preamble to the proposed rule NMFS incorrectly stated on page 66523 that SFFT gear requirements were an example of a routine management measure to minimize salmon bycatch in the whiting sector. Whiting trawlers do not use SFFT gear. Therefore, this final rule omits reference to SFFT gear requirements for the whiting sector.

The preamble to the proposed rule on page 66523 inadvertently omitted a provision for closing the whiting sector due to Chinook salmon bycatch. The preamble to the proposed rule stated ''the entire whiting sector, including those with an approved SMP, would close if the non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve''. As clarified in the final rule, this fishery closure will only occur if the whiting sector has caught 11,000 Chinook salmon.

Classification

NMFS is issuing this rule pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, which provides

specific authority and procedure for implementing this action. Section 304(b)(1)(A) authorizes NMFS to implement a rule deemed by the Council under section 303(c) to implement regulatory amendments. Pursuant to MSA Section 305(d), this action is necessary to carry out a minor technical correction because of an error in the regulatory text. 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 final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared a final regulatory flexibility analysis (FRFA) under section 604 of the RFA, which incorporates the IRFA. A summary of any significant issues raised by the public comments in response to the IRFA, NMFS's responses to those comments, and a summary of the analyses completed to support the action are addressed below. NMFS also prepared a RIR for this action. A copy of the RIR and IRFA is available from NMFS (see **ADDRESSES** for electronic access information), and per the requirements of 5 U.S.C. 604(a), the text of the FRFA follows:

As applicable, section 604 of the RFA requires an agency to prepare a FRFA after being required by that section or any other law to publish a general notice of proposed rulemaking and when an agency promulgates a final rule under 5 U.S.C. 553. The following paragraphs constitute the FRFA for this action.

This FRFA incorporates the IRFA, a summary of any significant issues raised by the public comments, NMFS's responses to those comments, and a summary of the analyses completed to support the action. Analytical requirements for the FRFA are described in the RFA, section 604(a)(1) through (6). FRFAs contain:

1. A statement of the need for, and objectives of, the rule;

2. A statement of the significant issues raised by the public comments in response to the IRFA, 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;

3. The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) 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;

4. A description 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;

5. A description of the projected reporting, recordkeeping, and other compliance requirements of the 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; and

6. A 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 ''universe'' of entities to be considered in a FRFA generally includes only those small entities that can reasonably be expected to be directly regulated by the action. If the effects of the rule fall primarily on a distinct segment of the industry, or portion thereof (*e.g.,* user group, gear type, geographic area), that segment will be considered the universe for purposes of this analysis.

In preparing a FRFA, an agency may provide either a quantifiable or numerical description of the effects of a rule (and alternatives to the rule), or more general descriptive statements, if quantification is not practicable or reliable.

Need for and Objective of This Final Rule

The need for and objective of this final rule is described above in the Background section of the preamble and not repeated here.

Summary of Significant Issues Raised During Public Comment

NMFS published a proposed rule to implement salmon bycatch minimization measures for the Pacific coast groundfish fishery on October 20, 2020 (85 FR 66519). An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The comment period on the proposed rule ended on November 19, 2020. NMFS received seven comment letters on the proposed rule. One comment was received specific to the IRFA. The comment incorrectly asserted NMFS did not consider any significant alternatives to the bycatch minimization measures in the IRFA. As documented in the proposed and final rule, NMFS made this consideration and concluded there are no significant alternatives. This comment is discussed further in the Comments and Responses section above. This comment did not raise significant issues relative to the measures in the proposed rule. The Chief Counsel for Advocacy of the SBA did not file any comments on the IRFA or the proposed rule.

A Description and an Estimate of the Number of Small Entities to Which the Rule Will Apply

The RFA (5 U.S.C. 601 *et seq.*) requires government agencies to assess the effects that regulatory alternatives would have on small entities, defined as any business/organization independently owned and operated and not dominant in its field of operation (including its affiliates). A small harvesting business has combined annual receipts of $11 million or less for all affiliated operations worldwide. A small fish-processing business is one that employs 750 or fewer persons for all affiliated operations worldwide.

For marinas and charter/party boats, a small business is one that has annual receipts not in excess of $7.5 million. A wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide. A nonprofit organization is determined to be ''not dominant in its field of operation'' if it is considered small under one of the following SBA size standards: environmental, conservation, or professional organizations are considered small if they have combined annual receipts of $15 million or less, and other organizations are considered small if they have combined annual receipts of $7.5 million or less.

The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

This final rule will directly affect all commercial groundfish vessels and select recreational groundfish vessels. In the C/P sector, all three permit owners (owning the collective 10 permits) self-reported as large entities. For the MS sector, of the 31 MS/Catcher Vessel endorsed permits, 25 permits and their associated vessels are registered as small entities. Nine permits held by seven entities self-reported as large, with one entity owning three permits. In order to fish in the shoreside whiting or midwater trawl sector, a limited entry trawl endorsed permit is required. Of the 164 limited entry trawl endorsed

permits (excluding those with a C/P endorsement), 110 permit owners holding 129 permits classified themselves as small entities. The average small entity owns 1.17 permits with 15 entities owning more than one permit. However, given that between 23 and 26 vessels have participated in the shoreside whiting fishery in the last three years and the same range of vessels in the midwater rockfish fisheries, this is an overestimate of the potential impacted number of small entities. Additionally, it is likely some entities own more than one vessel. From 2016–2018, there were 67–74 bottom trawl vessels.

Since 2016–18, there have been 17 to 23 fixed gear participants in the IFQ fishery, 136 to 144 in the limited entry fixed gear fisheries, and 746 to 769 in the open access fisheries. Of those fixed gear IFQ participants, there have been between 17 and 19 permits used to land groundfish. In 2018, an estimated 13 of these trawl endorsed permits were classified as small entities (based on 2019 declarations). In 2019, 208 of the 239 fixed gear endorsed limited entry permits (required to fish in the primary or limited entry fixed gear sectors) reported as small entities. For the permits that reported as large entities, one entity owned three permits and three owned two permits. All open access vessels are assumed to be small entities, with ex-vessel revenues for all landings averaging $8,966 in 2018.

For the recreational sector, all charter businesses are designated as small entities. The portion of the recreational fishery that will be affected by this action are those groundfish trips occurring outside of the salmon season. Therefore, the estimates provided here may be an overestimate of the actual number of entities or trips that may be affected depending on when the salmon seasons are set and when a closure could occur. For Washington, there were 55 unique charter vessels that took 20,833 bottomfish trips in 2018. In 2018, there were 48 charter vessels that took an estimated 19,208 angler trips in Oregon. However, this estimate does not include guide boats that do not have an official office. In California, there were approximately 290 vessels targeting bottomfish or lingcod, according to logbook submissions, that took an estimated 504,118 angler trips.

The economic effects of the final rule are described in Section 4.6 of the Analysis (see **ADDRESSES**). The economic effects of the additional management tools to minimize ESA-listed salmon bycatch will depend on the extent and timing of the measure that is implemented. It is likely that there will be some negative economic impact on small entities with the implementation of a BAC or SFFT gear requirement. Vessels will potentially have to move from closed fishing locations, which may decrease the effectiveness at accessing target species.

Cooperatives or other groups of vessels in the Pacific whiting C/P, MS, and shoreside IFQ sectors may incur additional administrative costs associated with developing and submitting the SMP and the post-season report. Because we estimate the reporting burden to average 10 hours per response for the SMP proposal, and 8 hours per response for the SMP post-season report, we do not expect the reporting requirement to impact profitability of operations for small or large entities.

Economic impacts to small entities affected by the trawl closure thresholds will depend on the time that the automatic closure points were reached. Table 3.15 of the Analysis details the potential estimated losses for fisheries by month. If the trawl sectors were to unexpectedly close the recreational sectors in November, this could be a loss of $27.4 million in revenue.

There are no direct costs associated with the rules for access to the reserve. However, implementation of any inseason bycatch minimization measures prior to a sector accessing the reserve would have associated economic impacts. For example, if there were unexpected high bycatch in the non-whiting sector, NMFS would have to implement bycatch minimization measures such as a BAC prior to that sector accessing the reserve. The associated impacts would be those described above for the additional bycatch minimization tools.

Recordkeeping, Reporting, and Other Compliance Requirements

Additional reporting or recordkeeping may be required of the regulated entities under the final action. Cooperatives or other groups of Pacific whiting vessels will have new reporting requirements if they chose to submit an SMP to NMFS for approval. The cooperatives or other groups of vessels with an approved SMP will also be required to submit a post-season report to the Council and NMFS. The final rule adds a declaration to the suite of available declarations to allow NMFS OLE to sufficiently monitor and enforce SFFT gear requirements. This change will have negligible impact on a vessel's reporting burden.

Description of Significant Alternatives to This Final Rule That Minimize Economic Impacts on Small Entities

There are no significant alternatives to the final rule that would accomplish the stated objectives in a way that would reduce economic impacts of the final rule on small entities. This action allows NMFS to exempt any take of listed species from the prohibitions that would otherwise be imposed by Section 9 of the ESA by complying with the terms and conditions in the 2017 NMFS Biological Opinion, which specify certain measures for the Council and NMFS to develop and implement, or consider to minimize bycatch of ESA-listed Chinook and coho salmon. For that reason, there are no significant alternatives to the action evaluated in this FRFA.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the West Coast Regional Office (see **ADDRESSES**), and the guide will be included in a public notice sent to all members of the groundfish email group. To sign-up for the groundfish email group, input your email address and name and then click on the ''sign up'' button on the following website: *https://lp.constantcontactpages.com/su/koE8GSV/groundfish.* The guide and this final rule will also be available on the West Coast Region's website (see **ADDRESSES**) and upon request.

Paperwork Reduction Act Collection-of-Information Requirements

This final rule contains a new collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA) (OMB Control Number 0648–0794). This rule creates new requirements for the submission of SMPs and post-season reports. The following public reporting burden estimates for the submission of SMPs and post-season reports under this final rule include the time for reviewing instructions, searching existing data

sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Public reporting burden is estimated to average 10 hours per response for the SMP proposal, 3 hours per response for an SMP amendment, 6 hours per response for an administrative appeal of a disapproved SMP, and 8 hours per response for the SMP post-season report.

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. Written comments and recommendations for this information collection should be submitted at the following website: *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by using the search function and entering the title of the collection, ''Pacific Coast Groundfish Salmon Bycatch Minimization''.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 10, 2021.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. Amend § 660.11, in the definition of ''Conservation area(s)'', by revising the introductory text to paragraph (1) to read as follows:

§ 660.11 General definitions.

* * * * *

Conservation area(s) * * *

(1) *Groundfish Conservation Area* or *GCA* means a conservation area created or modified and enforced to control catch of groundfish or protected species. Regulations at § 660.60(c)(3) describe the various purposes for which NMFS may implement certain types of GCAs through routine management measures. Regulations at § 660.70 further describe and define coordinates for certain GCAs, including: Yelloweye Rockfish Conservation Areas; Cowcod Conservation Areas; waters encircling the Farallon Islands; and waters encircling the Cordell Banks. GCAs also include depth-based closures bounded by lines approximating depth contours, including Bycatch Reduction Areas or BRAs, or bounded by depth contours and lines of latitude, including, Block Area Closures or BACs, and Rockfish Conservation Areas or RCAs, which may be closed to fishing with particular gear types. BRA, BAC, and RCA boundaries may change seasonally according to conservation needs. Regulations at §§ 660.71 through 660.74, and § 660.76 define depth-based closure boundary lines with latitude/longitude coordinates. Regulations at § 660.11 describe commonly used geographic coordinates that define lines of latitude. Fishing prohibitions associated with GCAs are in addition to those associated with other conservation areas.

* * * * *

■ 3. Amend § 660.12 by adding paragraph (a)(19) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(19) Fish for, or take and retain, any species of groundfish, during salmon bycatch fishery closures described in § 660.60(d)(1)(iv) and (v), or fail to comply with the salmon bycatch management provisions described in § 660.60(i).

* * * * *

■ 4. Amend § 660.13 by:

■ a. Revising paragraph (d)(4)(iv)(A)(*10*);

■ b. Republishing paragraph (d)(4)(iv)(A)(*11*);

■ c. Revising paragraphs (d)(4)(iv)(A)(*12*) through (*30*); and

■ d. Adding paragraph (d)(4)(iv)(A)(*31*).

The revisions, republication, and addition read as follows:

§ 660.13 Recordkeeping and reporting.

* * * * *

(d) * * *

(4) * * *

(iv) * * *

(A) * * *

(*10*) Limited entry bottom trawl, shorebased IFQ, not including demersal trawl or selective flatfish trawl,

(*11*) Limited entry demersal trawl, shorebased IFQ,

(*12*) Limited entry selective flatfish trawl, shorebased IFQ,

(*13*) Non-groundfish trawl gear for pink shrimp,

(*14)* Non-groundfish trawl gear for ridgeback prawn,

(*15*) Non-groundfish trawl gear for California halibut,

(*16*) Non-groundfish trawl gear for sea cucumber,

(*17*) Open access longline gear for groundfish,

(*18*) Open access Pacific halibut longline gear,

(*19*) Open access groundfish trap or pot gear,

(*20*) Open access Dungeness crab trap or pot gear,

(*21*) Open access prawn trap or pot gear,

(*22*) Open access sheephead trap or pot gear,

(*23*) Open access line gear for groundfish,

(*24*) Open access HMS line gear,

(*25*) Open access salmon troll gear,

(*26*) Open access California Halibut line gear,

(*27*) Open access Coastal Pelagic Species net gear,

(*28*) Other gear,

(*29*) Tribal trawl,

(*30*) Open access California gillnet complex gear, or

(*31*) Gear testing.

* * * * *

■ 5. Amend § 660.50 by revising paragraph (h) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(h) *Salmon bycatch.* This fishery may be closed through automatic action at § 660.60(d)(1)(v).

■ 6. Amend § 660.60 by revising paragraphs (c)(3)(i) introductory text, (c)(3)(i)(C), and (d)(1)(iv) and (v) and adding paragraph (i) to read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(c) * * *

(3) * * *

(i) *Depth-based management measures.* Depth-based management measures, particularly closed areas known as Groundfish Conservation Areas, defined in § 660.11, include RCAs, BRAs, and BACs, and may be implemented in any fishery sector that takes groundfish directly or incidentally. Depth-based management measures are set using specific boundary lines that approximate depth contours with latitude/longitude waypoints found at §§ 660.70 through 660.74 and 660.76. Depth-based management measures and closed areas

may be used for the following conservation objectives: To protect and rebuild overfished stocks; to prevent the overfishing of any groundfish species by minimizing the direct or incidental catch of that species; or to minimize the incidental harvest of any protected or prohibited species taken in the groundfish fishery. Depth-based management measures and closed areas may be used for the following economic objectives: To extend the fishing season; for the commercial fisheries, to minimize disruption of traditional fishing and marketing patterns; for the recreational fisheries, to spread the available catch over a large number of anglers; to discourage target fishing while allowing small incidental catches to be landed; and to allow small fisheries to operate outside the normal season.

* * * * *

(C) *Block Area Closures.* BACs, as defined at § 660.111, may be closed or reopened, in the EEZ off Oregon and California, for vessels using limited entry bottom trawl gear, and in the EEZ off Washington, Oregon and California for vessels using midwater trawl gear, consistent with the purposes described in this paragraph (c)(3)(i).

* * * * *

(d) * * *

(1) * * *

(iv) Close the following groundfish fisheries, not including Pacific Coast treaty Indian fisheries, when conditions for Chinook salmon bycatch described in this table and paragraphs (d)(1)(iv)(A) and (B) of this section are met:

TABLE 1 TO PARAGRAPH (d)(1)(iv)

Close:	If Chinook salmon bycatch, as described in § 660.60(i)(2), exceeds:	And:
Whiting sector (Pacific whiting IFQ fishery, MS Coop Program and/or C/P Coop Program).	11,000 fish in the whiting sector	(1) A routine management measure specified at § 660.60(c) has not been implemented as described in § 660.60(i)(1) OR (2) The non-whiting sector has caught its 5,500 Chinook salmon bycatch guideline and 3,500 Chinook salmon from the bycatch reserve.
Whiting sector (Pacific whiting IFQ fishery, MS Coop Program and C/P Coop Program).	14,500 fish in the whiting sector	The non-whiting sector has not accessed the Chinook salmon bycatch reserve.
Non-whiting sector (midwater trawl, bottom trawl, and fixed gear fisheries under the Shorebased IFQ Program, limited entry fixed gear fisheries, open access fisheries, and recreational fisheries subject to this provision as set out in § 660.360(d)).	5,500 fish in the non-whiting sector ...	(1) A routine management measure specified at § 660.60(c) has not been implemented as described in § 660.60(i)(1) OR (2) The whiting sector has caught its 11,000 Chinook salmon guideline and 3,500 Chinook salmon from the bycatch reserve.
Non-whiting sector (midwater trawl, bottom trawl, and fixed gear fisheries under the Shorebased IFQ Program, limited entry fixed gear fisheries, open access fisheries, and recreational fisheries subject to this provision as set out in § 660.360(d)).	9,000 fish in the non-whiting sector ...	The whiting sector has not accessed the Chinook salmon bycatch reserve.
Non-whiting trawl fisheries (midwater trawl and bottom trawl fisheries under the Shorebased IFQ Program).	8,500 fish in the non-whiting sector.	
All trawl fisheries (whiting sector and non-whiting trawl fisheries).	19,500 fish in the whiting and non-whiting sector.	

(A) Consistent with § 660.60(i)(2), each component of the whiting sector (Pacific whiting IFQ fishery, MS Coop Program and C/P Coop Program) will be closed when Chinook salmon bycatch exceeds 11,000 Chinook salmon if a routine management measure specified at § 660.60(c) has not been implemented as described in § 660.60(i)(2) for that individual component of the whiting sector.

(B) Consistent with § 660.60(i)(2), the Chinook salmon closure at 11,000 fish does not apply to those whiting sector vessels that are parties to an approved Salmon Mitigation Plan, as specified at § 660.113(e), unless the non-whiting sector has caught the entire 3,500 Chinook salmon bycatch reserve.

(v) Close all groundfish fisheries, including Pacific Coast treaty Indian fisheries, if Chinook salmon bycatch in the groundfish fishery exceeds 20,000 fish.

* * * * *

(i) *Salmon bycatch management.* Salmon bycatch is managed through routine management measures, salmon bycatch guidelines and a Chinook salmon bycatch reserve, and fisheries closures. For purposes of salmon bycatch management, the groundfish fishery is divided into the whiting sector and non-whiting sector and includes bycatch of Chinook salmon and coho salmon from both non-tribal fisheries and Pacific Coast treaty Indian fisheries. The non-whiting sector includes the Pacific Coast treaty Indian vessels that target Pacific coast groundfish species other than whiting, as well as non-tribal vessels that target Pacific coast groundfish species other than whiting in the midwater trawl, bottom trawl, and fixed gear fisheries under the Shorebased IFQ Program, limited entry fixed gear fisheries, open access fisheries as defined at § 660.11, and recreational fisheries subject to this provision as set out in § 660.360(d). The whiting sector is the Pacific whiting fishery, as defined in § 660.111, and includes the Pacific Coast treaty Indian vessels that target whiting, as well as non-tribal vessels that target whiting participating in the C/P Coop Program, the MS Coop Program, and the Pacific whiting IFQ fishery.

(1) *Routine management measures.* Routine management measures specified at § 660.60(c) may be implemented to minimize Chinook salmon and/or coho salmon bycatch in the groundfish fishery. These measures may include BRAs, BACs, or a selective flatfish trawl gear requirement. These measures would not apply to vessels fishing in Pacific Coast treaty Indian fisheries.

(i) *Non-whiting sector.* Routine management measures to manage salmon bycatch in the non-whiting sector include:

(A) A BAC for bottom trawl or midwater trawl as specified at § 660.60(c)(3)(i).

(B) A BRA for midwater trawl as specified at § 660.60(c)(3)(i).

(C) A selective flatfish trawl gear requirement for bottom trawl.

(ii) W*hiting sector.* Routine management measures to manage salmon bycatch in the whiting sector include:

(A) A BAC as specified at § 660.60(c)(3)(i).

(B) A BRA as specified at § 660.60(c)(3)(i).

(2) *Chinook salmon bycatch guidelines and Chinook salmon bycatch reserve.* The Chinook salmon bycatch guideline for the non-whiting sector is 5,500 fish. The Chinook salmon bycatch guideline for the whiting sector is 11,000 fish. If a sector exceeds its Chinook salmon bycatch guideline, it may access a reserve of 3,500 Chinook salmon reserve provided action has been taken to minimize Chinook salmon bycatch as described in paragraph (i)(2)(i) or (ii) of this section. For bycatch accounting purposes, all Chinook salmon bycatch from the groundfish fishery, including both non-tribal and Pacific Coast treaty Indian fisheries, counts towards the applicable whiting or non-whiting sector bycatch guideline and the reserve.

(i) *Reserve access for the non-whiting sector.* The non-whiting sector may only access the reserve if a measure described in paragraph (i)(1)(i) of this section has been implemented.

(ii) *Reserve access for the whiting sector.* Each component of the whiting sector (Pacific whiting IFQ fishery, MS Coop Program and C/P Coop Program) may only access the reserve if a measure described in paragraph (i)(1)(ii) of this section has been implemented for that component of the whiting fishery. If a measure described in paragraph (i)(1)(ii) of this section has not been implemented for that component of the whiting fishery, vessels within that component that are parties to an approved Salmon Mitigation Plan (SMP), as specified at § 660.113(e), may access the reserve.

(3) *Fisheries closures.* Groundfish fisheries may be closed through automatic action at § 660.60(d)(1)(iv) and (v).

■ 7. Amend § 660.111 by:

■ a. Revising the definition of ''Block area closures or BACs'';

■ b. Removing the definition of ''Mothership Coop Program or MS Coop Program''; and

■ c. Adding a definition for ''Salmon Mitigation Plan (SMP)'' in alphabetical order.

The revision and addition read as follows:

§ 660.111 Trawl fishery—definitions.

* * * * *

Block area closures or *BACs* are a type of groundfish conservation area, defined at § 660.11, bounded on the north and south by commonly used geographic coordinates, defined at § 660.11, and on the east and west by the EEZ, and boundary lines approximating depth contours, defined with latitude and longitude coordinates at §§ 660.71 through 660.74 (10 fm through 250 fm), and § 660.76 (700 fm). BACs may be implemented or modified as routine management measures, per regulations at § 660.60(c). BACs may be implemented in the EEZ off Oregon and California for vessels using limited entry bottom trawl and/or midwater trawl gear. BACs may be implemented in the EEZ off Washington shoreward of the boundary line approximating the 250-fm depth contour for midwater trawl vessels. BACs may close areas to specific trawl gear types (*e.g.* closed for midwater trawl, bottom trawl, or bottom trawl unless using selective flatfish trawl) and/or specific programs within the trawl fishery (*e.g.* Pacific whiting fishery or MS Coop Program). BACs may vary in their geographic boundaries and duration. Their geographic boundaries, applicable gear type(s) and/or specific trawl fishery program, and effective dates will be announced in the **Federal Register**. BACs may have a specific termination date as described in the **Federal Register**, or may be in effect until modified. BACs that are in effect until modified by Council recommendation and subsequent NMFS action are set out in Tables 1 (North) and 1 (South) of this subpart.

* * * * *

Salmon Mitigation Plan (SMP) means a voluntary agreement amongst a group of at least three vessels in the MS Coop Program, C/P Coop Program, or Pacific whiting IFQ fishery to manage Chinook salmon bycatch, approved by NMFS under § 660.113(e). Vessels fishing under an approved SMP would have access to the Chinook salmon bycatch reserve as described in § 660.60(i)(2). Routine management measures to minimize Chinook salmon bycatch as described in § 660.60(i) may be implemented for vessels that are parties to an approved SMP.

* * * * *

■ 8. Amend § 660.113 by adding paragraph (e) to read as follows:

§ 660.113 Trawl fishery—recordkeeping and reporting.

* * * * *

(e) *Salmon Mitigation Plan (SMP).* NMFS may approve a SMP for a group of at least three vessels in the MS Coop Program, C/P Coop Program, or Pacific whiting IFQ fishery. NMFS may approve an SMP for more than one group in a given year.

(1) *Applicability of further measures to manage salmon bycatch.* Routine management measures to minimize Chinook salmon bycatch as described in § 660.60(i) may be implemented for vessels with an approved SMP.

(2) *SMP contents.* The SMP must contain, at a minimum, the following—

(i) *SMP name.* The name of the SMP.

(ii) *Vessels party to the SMP.* The vessel name and USCG vessel registration number (as given on USCG Form 1270) or state registration number, if no USCG documentation, of each vessel that is party to the SMP. A minimum of three vessels must be party to the SMP.

(iii) *Compliance agreement.* A written statement that all parties to the SMP agree to voluntarily comply with all provisions of the SMP.

(iv) *Signatures of those party to SMP.* The names and signatures of the owner or representative for each vessel that is party to the SMP.

(v) *Designated SMP representative.* The name, telephone number, mailing address, and email address of a person appointed by those party to the SMP who is responsible for:

(A) Serving as the SMP contact person between NMFS and the Council;

(B) Submitting the SMP proposal and any SMP amendments; and

(C) Submitting the SMP postseason report to the Council and NMFS.

(vi) *Plan.* A description of:

(A) How parties to the SMP will adequately monitor and account for the catch of Chinook salmon.

(B) How parties to the SMP will avoid and minimize Chinook salmon bycatch, including a description of tools parties will employ. Tools may include, but would not be limited to, information sharing, area closures, movement rules, salmon excluder use, and internal bycatch guidelines.

(C) How the SMP is expected to promote reductions in Chinook salmon bycatch relative to what would have occurred in absence of the SMP.

(3) *Deadline for proposed SMP.* A proposed SMP must be submitted

between February 1 and March 31 of the year in which it intends to be in effect to NMFS at: NMFS, West Coast Region, ATTN: Fisheries Permit Office, Bldg. 1, 7600 Sand Point Way NE, Seattle, WA 98115. In 2021, NMFS may consider proposals received after March 31. In 2021, NMFS will announce any changes to the SMP submission deadline via public notice. In 2022 and beyond, NMFS will not consider any proposals received after March 31.

(4) *Duration.* Once approved, the SMP expires on December 31 of the year in which it was approved. An SMP may not expire mid-year. No party may join or leave an SMP once it is approved, except as allowed in paragraph (e)(5)(iii) of this section.

(5) *NMFS review of a proposed SMP*—(i) *Approval.* The Assistant Regional Administrator will provide written notification of approval to the designated SMP representative if the SMP meets the following requirements:

(A) Contains the information required in paragraph (e)(2) of this section;

(B) Is submitted in compliance with the requirements of paragraphs (e)(3) and (4) of this section; and

(C) As determined by NMFS, is reasonably expected to reduce Chinook salmon bycatch.

(ii) *SMP identification number.* If approved, NMFS will assign an SMP identification number to the approved SMP.

(iii) *Amendments to an SMP.* After the SMP is approved, the designated SMP representative must submit any changes to the SMP, including any changes in the vessels party to the SMP, as an amendment to the SMP for approval by NMFS. The designated SMP representative may submit amendments to an approved SMP to NMFS at any time during the year in which the SMP is approved. The amendment must include the SMP identification number. An amendment to an approved SMP is effective upon written notification of approval by NMFS to the designated SMP representative. The Assistant Regional Administrator will provide written notification of approval to the designated SMP representative if the SMP as amended meets the following requirements:

(A) Contains the information required in paragraph (e)(2) of this section;

(B) Is submitted in compliance with the requirements of paragraph (e)(4) of this section; and

(C) As determined by NMFS, is reasonably expected to reduce Chinook salmon bycatch.

(iv) *Disapproval*—(A) *NMFS Disapproval.* NMFS will disapprove a proposed SMP or a proposed amendment to an SMP for any of the following reasons:

(*1*) If the proposed SMP fails to meet any of the requirements of paragraphs (e)(2) through (4) of this section,

(*2*) If a proposed amendment to an SMP would cause the SMP to no longer meet the requirements of paragraphs (e)(2) and (4) of this section, or

(*3*) If NMFS determines the proposed SMP or SMP amendment is not reasonably expected to reduce Chinook salmon bycatch.

(B) *Initial Administrative Determination (IAD).* If, in NMFS' review of the proposed SMP or amendment, NMFS identifies deficiencies in the proposed SMP that would require disapproval of the proposed SMP or amendment, NMFS will notify the applicant in writing. The applicant will be provided one 30-day period to address, in writing, the deficiencies identified by NMFS. Additional information or a revised SMP received by NMFS after the expiration of the 30-day period specified by NMFS will not be considered for purposes of the review of the proposed SMP or amendment. NMFS will evaluate any additional information submitted by the applicant within the 30-day period. If the Assistant Regional Administrator determines the additional information addresses deficiencies in the proposed SMP or amendment, the Assistant Regional Administrator will approve the proposed SMP or amendment under paragraph (e)(5)(i) or (iii) of this section. However, if, after consideration of the original proposed SMP or amendment, any additional information, or a revised SMP submitted during the 30-day period, NMFS determines the proposed SMP or amendment does not comply with the requirements of paragraph (e)(5)(i) or (iii) of this section, the Assistant Regional Administrator will issue an IAD to the applicant in writing providing the reasons for disapproving the proposed SMP or amendment.

(*C*) *Administrative Appeals.* An applicant who receives an IAD disapproving a proposed SMP or amendment may appeal. The appeal must be filed in writing within 30 calendar days of when NMFS issues the IAD. The NOAA Fisheries National Appeals Office will process any appeal. The regulations and policy of the National Appeals Office will govern the appeals process. The National Appeals Office regulations are specified at 15 CFR part 906.

(D) *Pending appeal.* While the appeal of an IAD disapproving a proposed SMP or amendment is pending, proposed parties to the SMP subject to the IAD will not have access to the Chinook salmon bycatch reserve unless a measure described in § 660.60(i)(1)(ii) has been implemented for that component of the whiting fishery.

(6) *SMP postseason report.* The designated SMP representative for an approved SMP must submit a written postseason report to NMFS and the Council for the year in which the SMP was approved.

(i) *Submission deadline.* The SMP postseason report must be received by NMFS and the Council no later than March 31 of the year following that in which the SMP was approved.

(ii) *Information requirements.* The SMP postseason report must contain, at a minimum, the following information:

(A) Name of the SMP and SMP identification number.

(B) A comprehensive description of Chinook salmon bycatch avoidance measures used in the fishing year in which the SMP was approved, including but not limited to, information sharing, area closures, movement rules, salmon excluder use, and internal bycatch guidelines.

(C) An evaluation of the effectiveness of these avoidance measures in minimizing Chinook salmon bycatch.

(D) A description of any amendments to the terms of the SMP that were approved by NMFS during the fishing year in which the SMP was approved and the reasons the amendments to the SMP were made.

■ 9. Amend § 660.130 by revising paragraphs (e) introductory text, (e)(5) introductory text, and (e)(5)(i) and (iii) and adding paragraph (g) to read as follows:

§ 660.130 Trawl fishery—management measures.

* * * * *

(e) *Groundfish conservation areas (GCAs).* GCAs are closed areas, defined at § 660.11, and using latitude and longitude coordinates specified at §§ 660.70 through 660.74, and § 660.76.

* * * * *

(5) *Block area closures or BACs.* BACs, defined at § 660.111, are applicable to vessels with groundfish bottom trawl or midwater trawl gear on board that is not stowed, per the prohibitions in § 660.112(a)(5). When in effect, BACs are areas closed to bottom trawl and/or midwater trawl fishing. A vessel operating, for any purpose other than continuous transiting, in the BAC must have prohibited trawl gear stowed, as defined at § 660.111. Nothing in these Federal regulations supersedes any state regulations that may prohibit trawling shoreward of the fishery management area, defined at § 660.11. Prohibitions at

§ 660.112(a)(5) do not apply under any of the following conditions and when the vessel has a valid declaration for the allowed fishing:

(i) *Trawl gear.* Limited entry midwater trawl gear and bottom trawl gear may be used within the BAC only when it is an authorized gear type for the area and season, and not prohibited by the BAC.

* * * * *

(iii) *Multiple gears.* If a vessel fishes in a BAC with an authorized groundfish trawl gear, it may fish outside the BAC on the same trip using another authorized trawl gear type for that area and season, provided it makes the appropriate declaration change.

* * * * *

(g) *Salmon bycatch.* This fishery may be closed through automatic action at § 660.60(d)(1)(iv) and (v).

[FR Doc. 2021–03204 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 34
Tuesday, February 23, 2021

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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 702

RIN 3133–AF21

Risk-Based Net Worth—COVID–19 Regulatory Relief

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) is issuing this proposal to raise the asset threshold for defining a credit union as ''complex'' for purposes of being subject to any risk-based net worth requirement in the NCUA's regulations. The proposed rule would amend the NCUA's regulations to provide that any risk-based net worth requirement will be applicable only to a federally insured natural-person credit union (credit union) with quarter-end assets that exceed $500 million and a risk-based net worth requirement that exceeds six percent. The COVID–19 pandemic has created a vital need for financial institutions, including credit unions, to provide access to responsible credit and other member services to support consumers. Implementing this regulatory change in advance of January 1, 2022, the effective date of the 2015 final risk based capital (RBC) rule issued by the NCUA, would provide necessary capital relief to a significant number of credit unions without substantially decreasing the safety and soundness of credit unions or the National Credit Union Share Insurance Fund (NCUSIF).

DATES: Comments must be received on or before March 25, 2021.

ADDRESSES: You may submit written comments, identified by RIN 3133–AF21, by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (703) 518–6319. Include ''[Your Name]—Comments on Risk-Based Net Worth—COVID–19 Regulatory Relief'' in the transmittal.
- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

Public Inspection: You may view all public comments on the Federal eRulemaking Portal at *http://www.regulations.gov* as submitted, except for those we cannot post for technical reasons. The NCUA will not edit or remove any identifying or contact information from the public comments submitted. Due to social distancing measures in effect, the usual opportunity to inspect paper copies of comments in the NCUA's law library is not currently available. After social distancing measures are relaxed, visitors may make an appointment to review paper copies by calling (703) 518–6540 or emailing *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: *Policy and Analysis:* Kathryn Metzker, Risk Management Division, Office of Examination and Insurance, at (571) 438–0073; *Legal:* Thomas Zells, Staff Attorney, Office of General Counsel, at (703) 518–6540; Rachel Ackmann, Senior Staff Attorney, Office of General Counsel, at (703) 548–2601; or by mail at: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Legal Authority
III. The Proposed Rule
IV. Impact of the Proposed Rule
V. Regulatory Procedures

I. Introduction

In 1998, Congress enacted the Credit Union Membership Access Act (CUMAA).[1] Section 301 of CUMAA added section 216 to the Federal Credit Union Act (FCU Act),[2] which required the Board to adopt by regulation a system of prompt corrective action (PCA) to restore the net worth of credit unions that become inadequately capitalized. The purpose of section 216 of the FCU Act is to ''resolve the problems of [federally] insured credit unions at the least possible long-term loss to the [NCUSIF].'' [3] To carry out that purpose, Congress set forth a basic structure for PCA in section 216 that consists of three principal components: (1) A framework combining mandatory actions prescribed by statute with discretionary actions developed by the NCUA; (2) an alternative system of PCA to be developed by the NCUA for credit unions defined as ''new;'' and (3) a risk-based net worth requirement to apply to credit unions the NCUA defines as ''complex.''

The Board initially implemented the required system of PCA in 2000,[4] primarily in part 702 of the NCUA's regulations, and most recently made substantial updates to the regulation in October 2015 [5] and October 2018.[6] The risk-based net worth requirement for credit unions meeting the definition of ''complex'' was first applied on the basis of data in the Call Report reflecting activity in the first quarter of 2001.[7] The NCUA's risk-based net worth requirement has been largely unchanged since its implementation, with limited exceptions.[8] Currently, the NCUA defines a credit union as complex and thus subject to the requirement only if the credit union has quarter-end assets that exceed $50 million and its risk-based net worth requirement exceeds six percent.[9]

As described more fully below, while the risk-based net worth requirement remains in place, the NCUA has issued multiple final rules to implement a requirement that utilizes an RBC ratio to replace the current requirement. The

[1] Public Law 105–219, 112 Stat. 913 (1998).

[2] 12 U.S.C. 1790d.

[3] 12 U.S.C. 1790d(a)(1).

[4] 12 CFR part 702; see also 65 FR 8584 (Feb. 18, 2000) and 65 FR 44950 (July 20, 2000).

[5] 80 FR 66626 (Oct. 29, 2015).

[6] 83 FR 55467 (Nov. 6, 2018).

[7] 65 FR 44950 (July 20, 2000).

[8] The NCUA's risk-based net worth requirement has been largely unchanged since its implementation, with limited exceptions: Revisions were made to the rule in 2003 to amend the risk-based net worth requirement for member business loans, 68 FR 56537 (Oct. 1, 2003); revisions were made to the rule in 2008 to incorporate a change in the statutory definition of ''net worth,'' 73 FR 72688 (Dec. 1, 2008); revisions were made to the rule in 2011 to expand the definition of ''low-risk assets'' to include debt instruments on which the payment of principal and interest is unconditionally guaranteed by the NCUA, 76 FR 16234 (Mar. 23, 2011); revisions were made in 2013 to exclude credit unions with total assets of $50 million or less from the definition of ''complex'' credit union, 78 FR 4033 (Jan. 18, 2013); and amendments were made in April 2020 to define loans made by credit unions under the Small Business Administration's Paycheck Protection Program as ''low-risk assets,'' 85 FR 23212 (Apr. 27, 2020).

[9] 12 CFR 702.103.

RBC requirement is based on the same provisions in the FCU Act, but uses different terminology and standards to distinguish it from the current risk-based net worth requirement. However, the effective date of the RBC amendments has been delayed until January 1, 2022, and the rule is currently undergoing a holistic review as part of that delay. Further, and of particular relevance to this proposed rule, the prospective RBC requirement applies only if a credit union's quarter-end total assets exceed $500 million, whereas the current risk-based net worth requirement applies if a credit union has quarter-end assets that exceed $50 million and its risk-based net worth requirement, as calculated under current part 702, exceeds six percent.

As noted, at its October 2015 meeting, the Board issued a final rule (2015 Final Rule) to amend part 702 of the NCUA's current PCA regulations to require that credit unions taking certain risks hold capital commensurate with those risks.[10] The RBC provisions of the 2015 Final Rule applied only to credit unions with quarter-end total assets exceeding $100 million. The overarching intent of the 2015 Final Rule was to reduce the likelihood that a relatively small number of high-risk outlier credit unions would exhaust their capital and cause large losses to the NCUSIF. Under the FCU Act, federally insured credit unions are collectively responsible for replenishing losses to the NCUSIF.[11]

The 2015 Final Rule restructures the NCUA's current PCA regulations and makes various revisions, including amending the agency's risk-based net worth requirement by replacing it with a new RBC ratio. The Board originally set the effective date of the 2015 Final Rule for January 1, 2019 to provide credit unions and the NCUA with sufficient time to make the necessary adjustments—such as systems, processes, and procedures—and to reduce the burden on affected credit unions.

At its October 2018 meeting, the Board issued a final rule (2018 Supplemental Rule) to delay the effective date of the 2015 Final Rule for an additional year, moving the effective date from January 1, 2019 to January 1, 2020.[12] Importantly, the 2018 Supplemental Rule also amended the definition of ''complex'' credit union, adopted in the 2015 Final Rule for RBC purposes, by increasing the threshold level for coverage from $100 million to $500 million. Therefore, only credit unions with over $500 million in assets will be subject to the 2015 Final Rule.[13] These changes provided these covered credit unions and the NCUA with additional time to prepare for the rule's implementation, and exempted an additional 1,026 credit unions from the RBC requirements of the 2015 Final Rule without subjecting the NCUSIF to undue risk.

In December 2019, the Board issued a final rule (2019 Supplemental Rule) to further delay the effective date of the 2015 Final Rule an additional two years, until January 1, 2022.[14] The Board issued the 2019 Supplemental Rule to allow the Board more time to holistically and comprehensively evaluate capital standards for credit unions [15] and provide covered credit unions and the NCUA with additional time to prepare for the 2015 Final Rule's implementation.

Under the 2019 Supplemental Rule, the NCUA's current PCA regulation remains in effect until the 2015 Final Rule's amended effective date, January 1, 2022. The NCUA has enforced, and will continue to enforce, the capital standards currently in place and address any supervisory concerns through existing regulatory and supervisory mechanisms. Until that amended effective date, a credit union that would be exempted from any future RBC requirement because it does not have over $500 million in total assets remains subject to the current risk-based net worth requirement if it has over $50 million in total assets and a risk-based net worth requirement that exceeds six percent. The Board now believes that this is an unnecessary restriction and is proposing to increase the threshold for defining a complex credit union for purposes of the current risk-based net worth requirement to $500 million to match the prospective RBC requirement while retaining the requirement that a credit union's risk-based net worth requirement also exceeds six percent. This capital relief would enable credit unions to provide better service and more loans to their members.

II. Legal Authority

As discussed above, in 1998, Congress enacted CUMAA.[16] Section 301 of CUMAA added section 216 to the FCU Act,[17] which required the Board to adopt by regulation a system of PCA to restore the net worth of credit unions that become inadequately capitalized.[18] Section 216(b)(1)(A) requires the Board to adopt by regulation a system of PCA for credit unions ''consistent with'' section 216 of the FCU Act and ''comparable to'' section 38 of the Federal Deposit Insurance Act (FDI Act).[19] Section 216(b)(1)(B) requires that the Board, in designing the PCA system, also take into account the ''cooperative character of credit unions'' (*i.e.,* credit unions are not-for-profit cooperatives that do not issue capital stock, must rely on retained earnings to build net worth, and have boards of directors that consist primarily of volunteers).[20] Among other things, section 216(c) of the FCU Act requires the NCUA to use a credit union's net worth ratio to determine its classification among five ''net worth categories'' set forth in the FCU Act.[21] Section 216(o) generally defines a credit union's ''net worth'' as its retained earnings balance,[22] and a credit union's ''net worth ratio,'' as the ratio of its net worth to its total assets.[23] As a credit union's net worth ratio declines, so does its classification among the five net worth categories, thus subjecting it to an expanding range of mandatory and discretionary supervisory actions under PCA.[24]

Section 216(d)(1) of the FCU Act requires that the NCUA's system of PCA include, in addition to the statutorily defined net worth ratio requirement applicable to credit unions, ''a risk-based net worth [25] requirement for

[10] 80 FR 66626 (Oct. 29, 2015).

[11] *See* 12 U.S.C. 1782(c)(2)(A) (The FCU Act requires that each federally insured credit union pay a Federal share insurance premium equal to a percentage of the credit union's insured shares to ensure that the NCUSIF has sufficient reserves to pay potential share insurance claims by credit union members, and to provide assistance in connection with the liquidation or threatened liquidation of federally insured credit unions in troubled condition.).

[12] 83 FR 55467 (Nov. 6, 2018).

[13] The risk-based net worth requirement currently in effect applies to a credit union only if it has quarter-end assets that exceed $50 million and its risk-based net worth requirement exceeds six percent.

[14] 84 FR 68781 (Dec. 17, 2019).

[15] The final rule provided several examples of issues the Board would consider during the delay, including asset securitization, subordinated debt, and a community bank leverage ratio analog.

[16] Public Law 105–219, 112 Stat. 913 (1998).

[17] 12 U.S.C. 1790d.

[18] The risk-based net worth requirement for credit unions meeting the definition of ''complex'' was first applied on the basis of data in the Call Report reflecting activity in the first quarter of 2001. 65 FR 44950 (July 20, 2000).

[19] 12 U.S.C. 1790d(b)(1)(A); see also 12 U.S.C. 1831o (Section 38 of the FDI Act setting forth the PCA requirements for banks).

[20] 12 U.S.C. 1790d(b)(1)(B).

[21] 12 U.S.C. 1790d(c).

[22] 12 U.S.C. 1790d(o)(2).

[23] 12 U.S.C. 1790d(o)(3).

[24] 12 U.S.C. 1790d(c)–(g); 12 CFR 702.204(a)–(b).

[25] For purposes of this rulemaking, the term ''risk-based net worth requirement'' is used in reference to the statutory requirement for the Board to design a capital standard that accounts for variations in the risk profile of complex credit unions. The term RBC is used to refer to the specific standards established

Continued

insured credit unions that are complex, as defined by the Board.'' [26] The FCU Act directs the NCUA to base its definition of ''complex'' credit unions ''on the portfolios of assets and liabilities of credit unions.'' [27] It also requires the NCUA to design a risk-based net worth requirement to apply to such ''complex'' credit unions.[28]

In addition to the specific regulatory authority provided to the NCUA by the above-referenced statutory provisions of the FCU Act, the FCU Act also grants the NCUA broad plenary rulemaking authority.

III. The Proposed Rule

The COVID–19 pandemic has created a vital need for financial institutions, including credit unions, to provide access to responsible credit and other member services to support consumers. The Board is working with Federal and state regulatory agencies, in addition to credit unions, to assist credit unions in managing their operations and to facilitate continued assistance to credit union members and communities impacted by the coronavirus. As part of these ongoing efforts, the Board is proposing to raise the asset threshold for defining a credit union as ''complex'' for purposes of the current risk-based net worth requirement. Under the proposal, any risk-based net worth requirement would be applicable to only a credit union with quarter-end assets that exceed $500 million whose risk-based net worth requirement also exceeds six percent. This would remain in place until the effective date of the above-referenced RBC rule. The Board believes that this increase would provide necessary relief to a significant number of credit unions and their members without substantially increasing the risk to credit unions or the NCUSIF, consistent with the NCUA's responsibility to maintain the safety and soundness of the credit union system.

The NCUA seeks to strike the appropriate balance between providing for the safety and soundness of the credit union industry, while not restricting credit union activities by requiring a credit union to hold excessive levels of capital. Requiring a credit union to hold excess capital above what is necessary to account for risk limits its ability to increase lending or provide necessary services to members. Specifically, potential consequences of the higher capital requirements include: Reduced or higher-cost lending, limited products, higher compliance cost, and increased merger activity.

In 2018, the NCUA determined that increasing the applicability threshold for RBC to $500 million did not pose undue risk to the NCUSIF because credit unions with assets greater than $500 million account for the majority of industry assets (both total assets and complex assets, as explained below). Based on September 30, 2020 data, credit unions with assets between $50 million and $500 million account for 15.9 percent of industry assets and 33.8 percent of credit unions. The average asset size of a credit union in this cohort is $164 million. Conversely, credit unions with assets greater than $500 million account for 81.6 percent of industry assets and only 12.4 percent of total credit unions. Therefore, raising the risk-based net worth requirement threshold to $500 million would still cover the majority of assets in the credit union system and not pose undue risk to the NCUSIF for the same reasons that the Board found in the 2018 Supplemental Rule. In the 2015 Final Rule and 2018 Supplemental Rule, the NCUA determined a credit union was complex by evaluating whether its portfolios of assets and liabilities were complex based on the products and services in which such credit unions engaged. An asset size threshold was developed as a proxy measure based on a detailed analysis performed by the NCUA.[29] The threshold set forth a clear demarcation line, above which the NCUA determined all credit unions engaged in complex activities, and where almost all such credit unions were involved in multiple complex activities.

The asset threshold adopted in the 2015 Final Rule and revised in the 2018 Supplemental Rule for determining whether a credit union is complex was based on a complexity index.[30] The 2018 Supplemental Rule also used a complexity ratio, a ratio of complex assets and liabilities to total assets, to evaluate the extent to which credit unions are involved in complex activities. The 2018 Supplemental Rule noted that of the $497 billion in complex assets and liabilities in the credit union system, $423 billion (85 percent)—the majority of complex assets and liabilities in the credit union system—are held among credit unions with more than $500 million in assets.[31] In general, two-thirds of credit unions with more than $500 million in total assets had complex assets and liabilities ratios above 30 percent. Only 11 percent of credit unions with less than $500 million had complexity ratios above 30 percent.

Using both the revised complexity index and the complexity ratio, the 2018 Supplemental Rule noted the $500 million threshold for defining complex credit unions would not represent undue risk to the NCUSIF as approximately 76 percent of the assets held by federally insured credit unions would still be covered. As noted above, credit unions with assets above $500 million represent 81.6 percent of industry assets as of September 30, 2020.

The Board believes this change would provide relief to many credit unions and help to maintain confidence in the system of cooperative credit, consistent with the NCUA's mission.

IV. Impact of the Proposed Rule

Increasing the complexity threshold to $500 million would provide potential relief to 1,737 credit unions. While all complex credit unions meet their risk-based net worth requirement as of September 30, 2020, because their net worth ratio exceeds their risk-based net worth requirement, immediate capital relief can be provided to some of these credit unions. As shown in Table 1, there are 94 complex credit unions with assets totaling $66 billion which are required to hold capital above 7 percent to be well capitalized based on their risk-based net worth requirement. Of the 94 credit unions, 67 have assets less than $500 million and would no longer be required to hold more capital to remain well capitalized. Additionally, increasing the complexity threshold now rather than when the 2015 Final Rule goes into effect will not pose

in the 2015 Final Rule to function as criteria for the statutory risk-based net worth requirement. The term ''risk-based capital ratio'' is also used by the other Federal banking agencies and the international banking community when referring to the types of risk-based requirements that are addressed in the 2015 Final Rule. This change in terminology has no substantive effect on the requirements of the FCU Act, and is intended only to reduce confusion for the reader.

[26] 12 U.S.C. 1790d(d)(1).

[27] 12 U.S.C. 1790d(d).

[28] *Id.*

[29] See the 2015 Final Rule and 2018 Supplemental Rule for reasons the NCUA believes a single asset-size threshold is appropriate for determining whether a credit union is complex for purposes of prompt corrective action. *See* 80 FR 66626 (Oct. 29, 2015) and 83 FR 55467 (Nov. 6, 2018).

[30] The 2015 Final Rule and 2018 Supplemental Rule both used a complexity index, however the original complexity index used in the 2015 Final Rule was amended in the 2018 Supplemental Rule. The 2018 Supplemental Rule used a revised complexity index that amended six of the indicators in the original complexity index so the index more accurately reflected ''complexity'' in credit unions and took into account certain regulatory changes that were made after the 2015 Final Rule was approved.

[31] This was based on available data at the time of the 2018 Supplemental Rule.

undue risk to the NCUSIF as the 67 credit unions provided relief represent less than 1 percent of industry assets.

TABLE 1—COMPLEX CREDIT UNIONS WITH A RISK BASED NET WORTH REQUIREMENT GREATER THAN 7 PERCENT

Asset category	Number of credit unions	Total assets (million)	Percent of industry assets
Assets >$50M [32]	94	$66.0	3.7
Assets >$500M [33]	27	54.6	3.1
$50M< Assets <$500M	67	11.4	0.6

Therefore, this proposed rule would provide immediate relief for the 67 credit unions that must currently manage their capital levels to a risk-based net worth requirement above seven percent.[34] Additionally, it would also provide relief to all credit unions with assets between $50 million and $500 million, which would be able to expand their portfolios and simply manage their capital levels to meet the seven percent leverage requirement to be well capitalized.

The NCUA invites comments on all aspects of the proposal.[35]

V. Regulatory Procedures

A. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include federally insured credit unions with assets less than $100 million) and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule. The proposed rule would only exempt additional credit unions from any risk-based net worth requirement in part 702 of the NCUA's regulations applicable to complex credit unions. As a result, it will not cause any increased burden on credit unions and will not have an impact on small credit unions. Accordingly, the NCUA certifies that the proposed rule will not have a significant economic impact on a substantial number of small credit unions.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden (44 U.S.C. 3507(d)). For purposes of the PRA, a paperwork burden may take the form of a reporting, recordkeeping, or a third-party disclosure requirement, referred to as an information collection. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number. This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. *et seq.*).

C. Executive Order 13132

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

This proposed rule would not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has therefore determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the Executive order.

D. Assessment of Federal Regulations and Policies on Families

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

List of Subjects in 12 CFR Part 702

Credit, Credit unions, Reporting and recordkeeping requirements.

By the NCUA Board on January 14, 2021.

Melane Conyers-Ausbrooks,

Secretary of the Board.

For the reasons discussed in the preamble, the Board proposes to amend part 702 of chapter VII of title 12 of the Code of Federal Regulations as follows:

PART 702—CAPITAL ADEQUACY

■ 1. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

§ 702.103 [Amended]

■ 2. Amend § 702.103(a) by removing the words ''fifty million dollars ($50,000,000)'' and add in their place ''five hundred million dollars ($500,000,000).''

[FR Doc. 2021–01400 Filed 2–22–21; 8:45 am]

BILLING CODE 7535–01–P

[32] This reflects the current threshold for complex credit unions.

[33] This reflects the proposed threshold for complex credit unions.

[34] This would reduce the amount of capital they are required to hold to be well capitalized by $82 million in aggregate, based on September 30, 2020 data.

[35] Because of the straightforward nature of the proposed change and the extensive comment period offered on the various RBC rulemakings, the Board is not providing the usual 60-day comment period. *See* NCUA Interpretive Ruling and Policy Statement (IRPS) 87–2, as amended by IRPS 03–2 and IRPS 15–1. 80 FR 57512 (Sept. 24, 2015), *available at https://www.ncua.gov/files/publications/irps/IRPS1987-2.pdf.*

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0994; Project Identifier AD–2020–00687–T]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Gulfstream Aerospace Corporation (Gulfstream) Model GVII–G600 airplanes. This proposed AD was prompted by a report that a failure mode

in the data concentration network (DCN) software causes the pitch attitude value to freeze on the primary flight display (PFD) for up to 20 seconds. This proposed AD would require updating the DCN and flight deck master operating system (MOS) software. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 9, 2021.

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

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

For service information identified in this proposed rule, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402; phone: (800) 810–4853; email: *pubs@gulfstream.com;* website: *https://www.gulfstream.com/en/customer-support/.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0994; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Myles Jalalian, Aviation Safety Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (404) 474–5572; fax: (404) 474–5606; email: *myles.jalalian@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2020–0994; Project Identifier AD–2020–00687–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Myles Jalalian, Aviation Safety Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, GA 30337. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA received a report that on certain Gulfstream Model GVII–G600 airplanes a failure mode in the DCN software causes the pitch attitude value to freeze on the PFD for up to 20 seconds.

During implementation of the DCN software update version 10.10.10 for certain Model GVII–G500 airplane configurations (''Block 1''), it was discovered the software supplier had incorrectly implemented one of Gulfstream's design requirements. At the time of this discovery on Model GVII–G500 Block 1 configurations, the DCN software version 10.10.10 had already been implemented on Model GVII–G600 airplanes in service. This airplane has three independent inertial reference systems (IRSs), identified as IRS1, IRS2, and IRS3, which are expected to provide identical pitch data. During flight testing, the GVII–G600 IRS1 was found to indicate a slightly different pitch from IRS2 and IRS3, at the same actual airplane pitch attitude. A DCN embedded function was created to correct the very minor pitch difference between IRS1, IRS2, and IRS3. DCN software version 10.10.10 implemented the new embedded function which computes a ''PITCH_DELTA correction factor'' (pitch difference correction factor) between the IRS pitch angles being used by the PFDs. The system calculates pitch correction based in part on the IRS1 pitch angle. If the IRS1 is lost, it causes the embedded function to invalidate the ''PITCH_DELTA output.'' During this failure mode, the pitch attitude value freezes on the display for up to 20 seconds, which results in temporarily incorrect pitch indications. The effect is evident only if the pitch of the airplane changes during the 20 second reset window. After 20 seconds, the system returns to normal. The standby flight display and heads up display are unaffected by this failure mode and continue to display the correct pitch attitude.

There is not an alert or annunciation that informs the flight crew of a stale (frozen) pitch display or potentially misleading flight information.

This condition, if not addressed, could result in loss of control of the airplane in certain phases of flight during instrument meteorological conditions.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Gulfstream GVII–G600 Aircraft Service Change No. 901, Initial Issue, dated May 12, 2020. This service document specifies procedures for installing the MOS software update part number EB60001034–0106 and operationally checking the installation.

The FAA also reviewed Gulfstream GVII–G600 Aircraft Service Change No. 020, Initial Issue, dated May 12, 2020. This service document specifies procedures for updating the DCN software level to version 10.10.12, updating system software in support of the MOS software update, and operationally checking the installation.

This service information is reasonably available because the interested parties have access to it through their normal

course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

The FAA is issuing this NPRM after determining the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 43 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Update DNC software	30 work-hours × $85 per hour = $2,550	$52	$2,602	$111,886
Update MOS software	10 work-hours × $85 per hour = $850	52	902	38,786

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Gulfstream Aerospace Corporation: Docket No. FAA–2020–0994; Project Identifier AD–2020–00687–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 9, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Gulfstream Aerospace Corporation Model GVII–G600 airplanes, serial numbers 73001 through 73043, certificated in any category.

(d) Subject

Joint Aircraft System Component Code 3400, Navigation System.

(e) Unsafe Condition

This AD was prompted by reports of software causing pitch attitude value freezing on the Primary Flight Display (PFD) for up to 20 seconds. The FAA is issuing this AD to prevent a stale pitch display or potentially misleading flight information. The unsafe condition, if not addressed, could result in loss of control of the airplane in certain phases of flight during instrument meteorological conditions.

(f) Compliance

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

(g) Update Software

Within 24 months after the effective date of this AD, update the data concentration network and flight deck master operating system software by using the Modification Instructions, Steps III. A through I, in Gulfstream GVII–G600 Aircraft Service Change No. 901, Initial Issue, dated May 12, 2020, concurrently with the Modification Instructions, Steps III. A through D, in Gulfstream GVII–G600 Aircraft Service Change No. 020, Initial Issue, dated May 12, 2020.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information.

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

(i) Related Information

(1) For more information about this AD, contact Myles Jalalian, Aviation Safety Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (404) 474–5572; fax: (404) 474–5606; email: *myles.jalalian@faa.gov.*

(2) For service information identified in this AD, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402; phone:

(800) 810–4853; email: *pubs@gulfstream.com;* website: *https://www.gulfstream.com/en/customer-support/.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued on January 29, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–03483 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0022; Project Identifier MCAI–2020–00395–E]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent XWB–75, Trent XWB–79, Trent XWB–79B, Trent XWB–84, and Trent XWB–97 model turbofan engines. This proposed AD was prompted by the manufacturer revising the time limits manual (TLM) to incorporate repairs to the low-pressure compressor (LPC) blades and introduce a new fan blade inspection. This proposed AD would require revisions to the airworthiness limitations section (ALS) of the Rolls-Royce (RR) Trent XWB TLM and the operator's existing approved aircraft maintenance program (AMP). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 9, 2021.

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

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

For service information identified in this NPRM, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; fax: +44 (0)1332 249936; email: *https://www.rolls-royce.com/contact-us/civil-aerospace.aspx;* website: *https://www.rolls-royce.com/contact-us.aspx.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0022; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; fax: (781) 238–7199; email: *Scott.M.Stevenson@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0022; Project Identifier MCAI–2020–00395–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2020–0066, dated March 23, 2020 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> The Airworthiness Limitations Section instructions for Trent XWB engines, which are approved by EASA, are defined and published in TLM TRENTXWB–K0680–TIME0–01. These instructions have been identified as mandatory for continued airworthiness.
>
> Failure to accomplish these instructions could result in an unsafe condition.
>
> Rolls-Royce recently revised the TLM, introducing new and/or more restrictive instructions.
>
> For the reason described above, this [EASA] AD requires accomplishment of the instructions specified in the TLM, as defined in this AD.

You may obtain further information by examining the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0022.

FAA's Determination

This product has been approved by EASA and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified the FAA

of the unsafe condition described in the MCAI and service information. The FAA is issuing this NPRM because the agency evaluated all the relevant information provided by EASA and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information

The FAA reviewed Rolls-Royce Airworthiness Limitations (Mandatory Inspections), TRENTXWB–A–05–20–01–00A01–030A–D, Revision 013, dated September 1, 2019, of the Rolls-Royce Trent XWB TLM TRENTXWB–K0680–TIME0–01, and Rolls-Royce Airworthiness Limitations (Mandatory Inspections), TRENTXWB–B–05–20–01–00A01–030A–D, Revision 005, dated April 1, 2020, of the Rolls-Royce Trent XWB TLM TRENTXWB–K0680–TIME0–01. These two sections of the TLM specify inspection intervals, differentiated by engine model, for critical rotating parts.

Proposed AD Requirements in This NPRM

This proposed AD would require revisions to the ALS of the RR Trent XWB TLM, as applicable to each engine model, and to the operator's existing approved AMP, to include new or more restrictive sections of the applicable RR Trent XWB TLM for each affected engine model.

Differences Between This Proposed AD and the MCAI or Service Information

EASA AD 2020–0066, dated March 23, 2020, requires that operators replace each component before exceeding the applicable life limit and that each mandatory inspection is accomplished within the thresholds and intervals, as specified in the latest revision of the TLM. This proposed AD would not mandate these actions because the manufacturer did not revise the life limit for any components with its revision to the TLM.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 22 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS of the RR Trent XWB TLM and the operator's existing approved AMP.	1 work-hour × $85 per hour = $85	$0	$85	$1,870

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Docket No. FAA–2021–0022; Project Identifier MCAI–2020–00395–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 9, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) (Type Certificate previously held by Rolls-Royce plc) Trent XWB–75, Trent XWB–79, Trent XWB–79B, Trent XWB–84, and Trent XWB–97 model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine Turbine/Turboprop.

(e) Unsafe Condition

This AD was prompted by the manufacturer revising the time limits manual (TLM) to incorporate repairs to the low-pressure compressor (LPC) blades and introduce a new fan blade inspection. The FAA is issuing this AD to prevent the failure of critical rotating parts. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Within 120 days after the effective date of this AD, revise the Rolls-Royce (RR) Trent XWB TLM, as applicable to each engine model, and the operator's existing approved

aircraft maintenance program (AMP) by incorporating the following:

(1) For Trent XWB–75, Trent XWB–79, Trent XWB–79B, and Trent XWB–84 model turbofan engines, add Figure 1 to paragraph (g)(1) of this AD to the airworthiness limitations section (ALS) of RR Trent XWB TLM TRENTXWB–K0680–TIME0–01.

Figure 1 to Paragraph (g)(1)

2.4.8	LP Compressor blades CSN 72311301250, refer to TRENTXWB-A-72-31-13-02A01-300A-C	
Part number	Inspection interval (EFC)	
	Standard Operation	Ultra Long Range Operation
KH14304	Remove the LP Compressor blades and repair in accordance with FRSA424, refer to TRENTXWB-A-72-31-13-02A08-600A-C at every engine refurbishment where a Level 3 workscope or above is instructed on the HP System Module.	Remove the LP Compressor blades and repair in accordance with FRSA424, refer to TRENTXWB-A-72-31-13-02A08-600A-C at every engine refurbishment where a Level 3 workscope or above is instructed on the HP System Module.
KH56535	Remove the LP Compressor blades and repair in accordance with FRSA424, refer to TRENTXWB-A-72-31-13-02A08-600A-C at every engine refurbishment where a Level 3 workscope or above is instructed on the HP System Module.	Remove the LP Compressor blades and repair in accordance with FRSA424, refer to TRENTXWB-A-72-31-13-02A08-600A-C at every engine refurbishment where a Level 3 workscope or above is instructed on the HP System Module.

(2) For Trent XWB–97 model turbofan engines, add Figure 2 to paragraph (g)(2) of this AD to the ALS of RR Trent XWB TLM TRENTXWB–K0680–TIME0–01.

Figure 2 to Paragraph (g)(2)

2.2.13	LP compressor fan blade CSN 72311301250, refer to DMC-TRENTXWB-B-72-31-13-02A01-300A-C.
Part number	**Interval**
KH74127	Examine the fan blade leading edge at every engine refurbishment

Note 1 to paragraph (g): Figure 1 to Paragraph (g)(1) and Figure 2 to Paragraph (g)(2) contain language from the original equipment manufacturer's TLM.

(h) Definition

For the purpose of this AD, the operator's existing approved AMP is defined as the basis for which the operator or the owner ensures the continuing airworthiness of each operated airplane.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in paragraph Related Information. You may email your request to: *ANE-AD-AMOC@faa.gov.*

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

(j) Related Information

(1) For more information about this AD, contact Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; fax: (781) 238–7199; email: *Scott.M.Stevenson@faa.gov.*

(2) Refer to European Union Aviation Safety Agency AD 2020–0066, dated March 23, 2020, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2021–0022.

(3) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, United Kingdom, DE24 8BJ; phone: +44 (0)1332 242424; fax: +44 (0)1332 249936; email: *https://www.rolls-royce.com/contact-us/civil-aerospace.aspx;* website: *https://www.rolls-royce.com/contact-us.aspx.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

Issued on January 29, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–02225 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0008; Airspace Docket No. 20–AWP–50]

RIN 2120–AA66

Proposed Amendment of Class D and Revocation of Class E Airspace; Gila Bend, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D airspace and revoke

the Class E airspace extending upward from 700 feet above the surface at Gila Bend AF Aux Airport, Gila Bend, AZ. The FAA is proposing this action as the result of a biennial review of the airspace. The geographic coordinates of the airport would be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before April 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2021–0008/Airspace Docket No. 20–AWP–50, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class D airspace and revoke the Class E airspace extending upward from 700 feet above the surface at Gila Bend AF Aux Airport, Gila Bend, AZ, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0008/Airspace Docket No. 20–AWP–50.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Amending the Class D airspace at Gila Bend AF Aux Airport, Gila Bend, AZ, by updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and replacing the outdated term ''Airport/Facility Directory'' with ''Chart Supplement''; And revoking the Class E airspace extending upward from 700 feet above the surface to at Gila Bend AF Aux airport as it is no longer required.

This action is the result of a biennial review of the airspace.

Class D and Class E airspace designations are published in paragraph 5000 and 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a

routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

AWP AZ D Gila Bend, AZ [Amended]

Gila Bend AF Aux Airport, AZ
(Lat. 32°53′16″ N, long. 112°43′11″ W)

That airspace extending upward from the surface up to and including 3,900 feet MSL within a 4.2-mile radius of Gila Bend AF Aux Airport, excluding that airspace within Restricted Area R–2305. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AWP AZ E5 Gila Bend, AZ [Removed]

Issued in Fort Worth, Texas, on January 27, 2021.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–02046 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0004; Airspace Docket No. 20–AAL–55]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Crooked Creek, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface of the earth at Crooked Creek Airport, Crooked Creek, AK. This action would accommodate new area navigation (RNAV) procedures and ensure the safety and management of instrument flight rule (IFR) operations within the National Airspace System.

DATES: Comments must be received on or before April 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0004; Airspace Docket No. 20–AAL–55, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov*.

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

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2245.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace extending upward from 700 feet above the surface of the earth to support IFR operations at Crooked Creek Airport, Crooked Creek, AK.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0004; Airspace Docket No. 20–AAL–55''. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive

public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface of the earth at Crooked Creek Airport, Crooked Creek, AK.

The Class E airspace would be established within a 2 mile radius of the airport, excluding that area within the Stony B Military Operations Area, and that airspace within 2 miles each side of the 332° bearing extending from the 2-mile radius to 8.5 miles northwest of the airport. This airspace would protect aircraft using the RNAV approach to runway 14 and departures until reaching 1,200 feet AGL.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

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

* * * * *

AAL AK E5 Crooked Creek, AK (NEW)

Crooked Creek Airport, AK
(Lat. 61°52′4″ N, long. 158°8′6″ W)

That airspace extending upward from 700 feet above the surface within a 2-mile radius of Crooked Creek Airport, and that airspace within 2-miles each side of the 332° bearing extending from the 2-mile radius to 8.5-miles northwest of the airport excluding that airspace within the Stony B MOA.

Issued in Seattle, Washington, on January 29, 2021.

Byron Chew,

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

[FR Doc. 2021–02324 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0035; Airspace Docket No. 21–AGL–11]

RIN 2120–AA66

Proposed Establishment and Revocation of Class E Airspace; North Dakota, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish an enroute domestic airspace area over the State of North Dakota and remove the enroute domestic airspace areas at Harvey and Linton, ND. The FAA is proposing this action at the request of Salt Lake Air Route Traffic Control Center (ARTCC) and Minneapolis ARTCC to improve air traffic control services and support instrument flight rule (IFR) operations over the state.

DATES: Comments must be received on or before April 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2021–0035/Airspace Docket No. 21–AGL–11, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket

containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish enroute domestic airspace area over the State of North Dakota and remove the enroute domestic airspace areas at Harvey Municipal Airport, Harvey, ND, and Linton Municipal Airport, Linton, ND, which would become redundant, to improve air traffic services and support IFR operations over the state.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2020–0035/Airspace Docket No. 21–AGL–11.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Establishing enroute domestic airspace area extending upward from 1,200 feet above the surface over the State of North Dakota;

Removing the enroute domestic airspace area at Harvey Municipal Airport, Harvey, ND, and Linton Municipal Airport, Linton, ND, as they would be redundant with the establishment of the enroute domestic airspace area over the state.

This action is being requested by Salt Lake ARTCC and Minneapolis ARTCC to improve air traffic services and support IFR operations over the state.

Class E airspace designations are published in paragraph 6006 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

AGL ND E6 Harvey, ND [Remove]

AGL ND E6 Linton, ND [Remove]

* * * * *

AGL ND E6 North Dakota, ND [Establish]

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of North Dakota.

Issued in Fort Worth, Texas, on February 17, 2021.

Martin A. Skinner,

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

[FR Doc. 2021–03519 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0001; Airspace Docket No. 21–ASW–2]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Durant, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Durant Regional Airport-Eaker Field, Durant, OK. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Texoma VHF omnidirectional range (VOR) navigation aids as part of the VOR Minimum Operational Network (MON) Program. The name and geographical coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before April 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2021–0001/Airspace Docket No. 21–ASW–2, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Durant Regional Airport-Eaker Field, Durant, OK, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0001/Airspace Docket No. 21–ASW–2.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile (decreased from a 6.9-mile) radius of Durant Regional Airport-Eaker Field, Durant, OK; updating the name (previously Eaker Field) and geographic coordinates of the airport to coincide with the FAA's aeronautical database; and removing the city associated with the airport in the header of the airspace legal description to comply with changes to FAA Order 7400.2M, Procedures for Handling Airspace Matters.

This action is the result of airspace reviews caused by the decommissioning of the Texoma VOR, which provided navigation information for the instrument procedures these airports, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW OK E5 Durant, OK [Amended]

Durant Regional Airport-Eaker Field, OK
(Lat. 33°56′23″ N, long. 96°23′42″ W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Durant Regional Airport-Eaker Field.

Issued in Fort Worth, Texas, on January 27, 2021.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–02045 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1188; Airspace Docket No. 20–ANE–10]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace, and Proposed Establishment of Class E Airspace; Worcester, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D airspace, Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface for Worcester Regional Airport, Worcester, MA, as an airspace evaluation of the area determined additional airspace is necessary. Also, this action proposes to establish Class E airspace extending upward from 700 feet above the surface for UMass Memorial Medical Center-University Campus Heliport, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAPs) serving this heliport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Comments must be received on or before April 9, 2021.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2020–1188; Airspace Docket No. 20–ANE–10, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order 7400.11E Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA

Order 7400.11E at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would amend Class D and Class E airspace, and establish Class E airspace in Worcester, MA, to support IFR operations in the area.

Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2020–1188 and Airspace Docket No. 20–ANE–10) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2020–1188; Airspace Docket No. 20–ANE–10.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to amend Class D and Class E surface airspace, for Worcester Regional Airport (formerly Worcester Municipal Airport), Worcester, MA. An airspace evaluation of the area determined the Class D and Class E surface area radii required an increase to 5.1 miles (from 4.2 miles). Also, the airport's Class E airspace extending upward from 700 feet above the surface would be increased to a 7.6-mile radius (from 6.7 miles). This action would also update the airport's name. In addition, the FAA proposes to establish Class E airspace extending upward from 700 feet above the surface for UMass Memorial Medical Center-University Campus Heliport, Worcester, MA, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for IFR operations at the heliport. This action would also replace the outdated term Airport/Facility Directory with the term Chart Supplement in the legal description of associated Class D and Class E airspace.

Class D and E airspace designations are published in Paragraphs 5000, 6002, and 6005, respectively of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration

proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANE MA D Worcester, MA [Amended]

Worcester Regional Airport, MA
(Lat. 42°16′02″ N, long. 71°52′32″ W)
Spencer Airport, MA
(Lat. 42°17′26″ N, long. 71°57′53″ W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 5.1-mile radius of Worcester Regional Airport, excluding that airspace from the surface up to but not including 1,900 feet MSL within a 1-mile radius of the Spencer Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Surface Airspace.

* * * * *

ANE MA E2 Worcester, MA [Amended]

Worcester Regional Airport, MA
(Lat. 42°16′02″ N, long. 71°52′32″ W)

That airspace extending upward from the surface within a 5.1-mile radius of Worcester Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ANE MA E5 Worcester, MA [Amended]

Worcester Regional Airport, MA
(Lat. 42°16′02″ N, long. 71°52′32″ W)
UMass Memorial Medical Center-University Campus Heliport
(Lat. 42°16′30″ N, long. 71°45′36″ W)

That airspace extending upward from 700 feet above the surface within a 7.6-mile radius of Worcester Regional Airport, and within a 6-mile radius of UMass Memorial Medical Center-University Campus Heliport.

Issued in College Park, Georgia, on February 2, 2021.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2021–02480 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1202; Airspace Docket No. 20–ANE–12]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Taunton, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface for Morton Hospital Heliport, Taunton, MA, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAPs) serving this heliport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area. This action would also update the name and geographic coordinates of Taunton Municipal Airport-King Field (formerly Taunton Municipal Airport), Taunton, MA.

DATES: Comments must be received on or before April 9, 2021.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2020–1202; Airspace Docket No. 20–ANE–12, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would establish and amend Class E airspace in Taunton, MA, to support IFR operations in the area.

Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2020–1202 and Airspace Docket No. 20–ANE–12) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA

Docket No. FAA–2020–1202; Airspace Docket No. 20–ANE–12.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes an amendment to 14 CFR part 71 to establish Class E airspace extending upward from 700 feet above the surface for Morton Hospital Heliport, Taunton, MA, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures (SIAPs) serving this heliport. In addition, the FAA proposes to amend Class E airspace extending upward from 700 feet above the surface by updating the name and geographic coordinates of Taunton Municipal Airport-King Field, Taunton, MA.

This action would also eliminate unnecessary verbiage in the airport's description, as Class E airspace is shared equally between FAA facilities.

Class E airspace designations are published in Paragraph 6005, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

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

* * * * *

ANE MA E5 Taunton, MA [Amended]

Taunton Municipal Airport-King Field, MA
(Lat. 41°52′28″ N, long. 71°0′59″ W)
Morton Hospital Heliport
(Lat. 41°54′21″ N, long. 71°5′429″ W)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of Taunton Municipal Airport-King Field and within a 6-mile radius of Morton Hospital Heliport.

Issued in College Park, Georgia, on, February 2, 2021.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2021–02456 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0002; Airspace Docket No. 21–ASW–3]

RIN 2120–AA66

Proposed Revocation of Class E Airspace; Mineola, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke the Class E airspace extending upward from 700 feet above the surface at Mineola Wisener Field, Mineola, TX. The FAA is proposing this action as the result of the cancellation of the instrument procedures at this airport.

DATES: Comments must be received on or before April 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2021–0002/Airspace Docket No. 21–ASW–3, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would revoke the Class E airspace extending upward from 700 feet above the surface at Mineola Wisener Field, Mineola, TX, due to the cancellation of the instrument procedures at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0002/Airspace Docket No. 21–ASW–3.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by revoking the Class E airspace extending upward from 700 feet above the surface to at Mineola Wisener Field, Mineola, TX; and updating the city in the header of the airspace legal description from Mineola, TX, to Mineola/Quitman, TX, to coincide with the FAA's aeronautical database for Wood County Airport-Collins Field, Mineola/Quitman, TX.

This action is the result of the cancellation of the instrument procedures at Mineola Wisener Field, Mineola, TX.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Mineola/Quitman, TX [Amended]

Wood County Airport-Collins Field, TX
(Lat. 32°44′32″ N long. 95°29′47″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Wood County Airport-Collins Field, and within 3.8 miles east and 5.7 miles west of the 182° bearing from the Wood County Airport-Collins Field extending from the 6.4-mile radius of Wood County Airport-Collins Field to 21.3 miles south of Wood County Airport-Collins Field.

Issued in Fort Worth, Texas, on January 27, 2021.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2021–02047 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0055; Airspace Docket No. 21–ASW–4]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Hebbronville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Jim Hogg County Airport, Hebbronville, TX. The FAA is proposing this action as the result of an airspace review due to the decommissioning of the Hebbronville non-directional beacon (NDB).

DATES: Comments must be received on or before April 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2021–0055/Airspace Docket No. 21–ASW–4, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Jim Hogg County Airport, Hebbronville, TX, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0055/Airspace Docket No. 21–ASW–4.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the

internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

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

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace extending upward from 700 feet above the surface at Jim Hogg County Airport, Hebbronville, TX, by removing the Hebbronville NDB and associated extension from the airspace legal description; and removing the cities associated with the airports to comply with changes to FAA Order 7400.2M, Procedures for Handling Airspace Matters.

This action is the result of an airspace review due to the decommissioning of the Hebbronville NDB which provided navigation information for the instrument procedures at this airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Hebbronville, TX [Amended]

Jim Hogg County Airport, TX

(Lat. 27°20′58″ N, long. 98°44′13″ W)

O.S. Wyatt Airport, TX

(Lat. 27°25′18″ N, long. 98°36′16″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jim Hogg County Airport, and within a 6.5-mile radius of O.S. Wyatt Airport.

Issued in Fort Worth, Texas, on February 17, 2021.

Martin A. Skinner,

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

[FR Doc. 2021–03520 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0033; Airspace Docket No. 21–AEA–1]

RIN 2120–AA66

Proposed Amendment of Class E Airspace; Wellsville, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Wellsville Municipal Airport/Tarantine Field, Wellsville, NY. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Wellsville VHF omnidirectional range (VOR) navigation aids as part of the VOR Minimum Operational Network (MON) Program. The name and geographical coordinates of the airport would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before April 9, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2021–0033/Airspace Docket No. 21–AEA–1, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class E airspace extending upward from 700 feet above the surface at Wellsville Municipal Airport/Tarantine Field, Wellsville, NY, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0033/Airspace Docket No. 21–AEA–1.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

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

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 8.6-mile (increased from a 7.9-mile) radius of Wellsville Municipal Airport/Tarantine Field, Wellsville, NY; removing the Wellsville VORTAC and associated extension from the airspace legal description; removing the HALOS NDB and extension east of the airport from the airspace legal description as they are no longer required; adding an extension 2 miles each side of the 269° bearing from the airport extending from the 8.6 mile radius to 8.9 miles west of the airport; updating the name (previously Wellsville Municipal/Tarantine Field Airport, Wellsville, NY) and geographic coordinates of the airport to coincide with the FAA's aeronautical database; and removing the city associated with the airport in the header of the airspace legal description to comply with changes to FAA Order 7400.2M, Procedures for Handling Airspace Matters.

This action is the result of airspace reviews caused by the decommissioning of the Wellsville VOR, which provided navigation information for the instrument procedures these airports, as part of the VOR MON Program.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F,

''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA NY E5 Wellsville, NY [Amended]

Wellsville Municipal Airport/Tarantine Field, NY
(Lat. 42°06′34″ N long. 77°59′24″ W)

That airspace extending upward from 700 feet above the surface within an 8.6-mile radius of Wellsville Municipal Airport/Tarantine Field, and within 2 miles each side of the 269° bearing from the airport extending from the 8.6-mile radius to 8.9 miles west of the airport.

Issued in Fort Worth, Texas, on January 27, 2021.

Martin A. Skinner,

Manager, Operations Support Group,ATO Central Service Center.

[FR Doc. 2021–02048 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2021–0013]

RIN 1625–AA08

Special Local Regulations; Sector Ohio Valley Annual and Recurring Special Local Regulations

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes amending and updating its special local regulations for recurring marine parades, regattas, and other events that take place in the Coast Guard Sector Ohio Valley area of responsibility (AOR). This proposed notice would update the current list of recurring special local with revisions, additions, and removals of events that no longer take place in the Sector Ohio Valley AOR. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before March 25, 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2021–0013 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Petty Officer Christopher Roble, Sector Ohio Valley, U.S. Coast Guard; telephone (502)-779–5336, email *SECOHV-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The Captain of the Port Sector Ohio Valley (COTP) proposes to update the current list of recurring special local regulations found in Table 1 of Title 33 of the Code of Federal Regulations (CFR) section 100.801 for events occurring within the Sector Ohio Valley area of responsibility within the Coast Guard's Eighth District.

This proposed rule would update the list of annually recurring special local regulations under 33 CFR 100.801, Table 1, for annual special local regulations in the Sector Ohio Valley's Area of Responsibillity (AOR). The Coast Guard will address all comments through response via the rulemaking process, including additional revisions to this regulatory section. Additionally, the public would be informed of these recurring events through local means and planned by the local communities.

The current list of annual and recurring special local regulations occurring in Sector Ohio Valley's AOR is published in 33 CFR 100.801, Table 1 titled ''Ohio Valley Annual and Reoccuring Marine Events.'' The most recent list was created June 8, 2020 via 85 FR 34994.

The Coast Guard's authority for establishing a special local regulation is contained in 46 U.S.C. 70041(a). The Coast Guard proposes to amend and update the special local regulations in 33 CFR 100.801, Table 1, to include the most up to date list of recurring special local regulations for events held on or around the navigable waters within Sector Ohio Valley's AOR. These events would include marine parades, boat races, swim events, and other marine related events. The current list under 33 CFR 100.801, Table 1, requires amendment to provide new information on existing special local regulations, add new special local regulations expected to recur annually or biannually, and to remove special local regulations that no longer occur. Issuing individual regulations for each new special local regulation, amendment, or removal of an existing special local regulation creates unnecessary administrative costs and burdens. This single proposed rulemaking will considerably reduce administrative overhead and provide the public with notice through publication in the **Federal Register** of recurring special local regulations in the AOR.

III. Discussion of Proposed Rule

Part 100 of 33 CFR. contains regulations describing regattas and marine parades conducted on U.S. navigable waters in order to ensure the safety of life in the regulated areas. Section 100.801 provides the regulations applicable to events taking place in the Eighth Coast Guard District and also provides a table listing each event and special local regulations. This

section requires amendment from time to time to properly reflect the recurring special local regulations. This proposed rule would update § 100.801, Table 1 titled ''Ohio Valley Annual and Reoccuring Marine Events.''

This proposed rule would add 1 new recurring special local regulation to Table 1 of § 100.801 for Sector Ohio Valley, as follows:

Date	Event/sponsor	Ohio Valley location	Regulated area
57. 3 days—One weekend in the month of August.	Owensboro HydroFair	Owensboro, KY	Ohio River, Mile 794.0–760.0 (Kentucky).

The effect of this proposed rule would be to restrict general navigation during these events. Vessels intending to transit the designated waterways during effective periods of the special local regulations would only be allowed to transit the area when the COTP or or designated representative, has deemed it would safe to do so or at the completion of the event.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

The Coast Guard expects the economic impact of this proposed rule to be minimal, therefore a full regulatory evaluation is unnecessary. This proposed rule would establishe special local regulations limiting access to certain areas described in 33 CFR 100.801, Table 1. The effect of this proposed rulemaking would not be significant because these special local regulations are limited in scope and duration. Additionally, the public would be given advance notification through local forms of notice, the **Federal Register**, and/or Notices of Enforcement. Thus, the public would be able to plan their operations and activities around enforcement times of the special local regulations. Broadcast Notices to Mariners, Local Notices to Mariners, and Safety Marine Information Broadcasts would also inform the community of these special local regulations. Vessel traffic would be permitted to request permission from the COTP or a designated representative to enter the restricted areas.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the regulated area may be small entities, for reasons stated in section IV.A. above, this proposed rule would not have a significant economic impact on any owner or operator because they are limited in scope and will be in effect for short periods of time.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning

COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that would not individually or cumulatively have a significant effect on the human environment. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. of the Instruction because it involves establishment of special local regulations related to marine event permits for marine parades, regattas, and other marine events. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.801, revise Table 1 to read as follows:

§ 100.801 Annual Marine Events in the Eighth Coast Guard District.

* * * * *

TABLE 1 TO § 100.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING MARINE EVENTS

Date	Event/sponsor	Ohio Valley location	Regulated area
1. 3 days—Second or third weekend in March.	Oak Ridge Rowing Association/ Cardinal Invitational.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
2. 1 day—Third weekend in March.	Vanderbilt Rowing/Vanderbilt Invite.	Nashville, TN	Cumberland River, Mile 188.0–192.7 (Tennessee).
3. 2 days—Fourth weekend in March.	Oak Ridge Rowing Association/ Atomic City Turn and Burn.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
4. 3 days—One weekend in April	Big 10 Invitational Regatta	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
5. 1 day—One weekend in April	Lindamood Cup	Marietta, OH	Muskingum River, Mile 0.5–1.5 (Ohio).
6. 3 days—Third weekend in April.	Oak Ridge Rowing Association/ SIRA Regatta.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
7. 2 days—Third Friday and Saturday in April.	Thunder Over Louisville	Louisville, KY	Ohio River, Mile 597.0–604.0 (Kentucky).
8. 1 day—During the last week of April or first week of May.	Great Steamboat Race	Louisville, KY	Ohio River, Mile 595.0–605.3 (Kentucky).
9. 3 days—Fourth weekend in April.	Oak Ridge Rowing Association/ Dogwood Junior Regatta.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
10. 3 days—Second weekend in May.	Vanderbilt Rowing/ACRA Henley	Nashville, TN	Cumberland River, Mile 188.0–194.0 (Tennessee).
11. 3 days—Second weekend in May.	Oak Ridge Rowing Association/ Big 12 Championships.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
12. 3 days—Third weekend in May.	Oak Ridge Rowing Association/ Dogwood Masters.	Oak Ridge, TN	Clinch River, Mile 48.5–52.0 (Tennessee).
13. 1 day—Third weekend in May.	World Triathlon Corporation/ IRONMAN 70.3.	Chattanooga, TN	Tennessee River, Mile 462.7–467.5 (Tennessee).
14. 1 day—During the last weekend in May or on Memorial Day.	Mayor's Hike, Bike and Paddle	Louisville, KY	Ohio River, Mile 601.0–604.5 (Kentucky).
15. 1 day—The last week in May	Chickamauga Dam Swim	Chattanooga, TN	Tennessee River, Mile 470.0–473.0 (Tennessee).
16. 2 days—Last weekend in May or first weekend in June.	Visit Knoxville/Racing on the Tennessee.	Knoxville, TN	Tennessee River, Mile 647.0–648.0 (Tennessee).
17. 2 days—Last weekend in May or one weekend in June.	Outdoor Chattanooga/Chattanooga Swim Festival.	Chattanooga, TN	Tennessee River, Mile 454.0–468.0 (Tennessee).

TABLE 1 TO § 100.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING MARINE EVENTS—Continued

Date	Event/sponsor	Ohio Valley location	Regulated area
18. 2 days—First weekend of June.	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
19. 1 day—First weekend in June	Visit Knoxville/Knoxville Powerboat Classic.	Knoxville, TN	Tennessee River, Mile 646.4–649.0 (Tennessee).
20. 1 day—One weekend in June	Tri-Louisville	Louisville, KY	Ohio River, Mile 600.5–604.0 (Kentucky).
21. 2 days—One weekend in June.	New Martinsville Vintage Regatta.	New Martinsville, WV	Ohio River Mile 127.5–128.5 (West Virginia).
22. 3 days—One of the last three weekends in June.	Lawrenceburg Regatta/Whiskey City Regatta.	Lawrenceburg, IN	Ohio River, Mile 491.0–497.0 (Indiana).
23. 3 days—One of the last three weekends in June.	Hadi Shrine/Evansville Shriners Festival.	Evansville, IN	Ohio River, Mile 790.0–796.0 (Indiana).
24. 3 days—Third weekend in June.	TM Thunder LLC/Thunder on the Cumberland.	Nashville, TN	Cumberland River, Mile 189.6–192.3 (Tennessee).
25. 1 day—Third or fourth weekend in June.	Greater Morgantown Convention and Visitors Bureau/Mountaineer Triathlon.	Morgantown, WV	Monongahela River, Mile 101.0–102.0 (West Virginia).
26. 1 day—Fourth weekend in June.	Team Magic/Chattanooga Waterfront Triathlon.	Chattanooga, TN	Tennessee River, Mile 462.7–466.0 (Tennessee).
27. 1 day—One day in June	Guntersville Lake Hydrofest	Guntersville, AL	Tennessee River south of mile 357.0 in Browns Creek, starting at the AL–69 Bridge, 34°21′38″ N, 86°20′36″ W, to 34°21′14″ N, 86°19′4″ W, to the TVA power lines, 34°20′9″ N, 86°21′7″ W, to 34°19′37″ N, 86°20′13″ W, extending from bank to bank within the creek. (Alabama).
28. 3 days—The last weekend in June or one of the first two weekends in July.	Madison Regatta	Madison, IN	Ohio River, Mile 554.0–561.0 (Indiana).
29. 1 day—During the first week of July.	Evansville Freedom Celebration/4th of July Freedom Celebration.	Evansville, IN	Ohio River, Mile 790.0–797.0 (Indiana).
30. First weekend in July	Eddyville Creek Marina/Thunder Over Eddy Bay.	Eddyville, KY	Cumberland River, Mile 46.0–47.0 (Kentucky).
31. 2 days—One of the first two weekends in July.	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
32. 1 day—Second weekend in July.	Bradley Dean/Renaissance Man Triathlon.	Florence, AL	Tennessee River, Mile 254.0–258.0 (Alabama).
33. 1 day—Third or fourth Sunday of July.	Tucson Racing/Cincinnati Triathlon.	Cincinnati, OH	Ohio River, Mile 468.3–471.2 (Ohio).
34. 2 days—One of the last three weekends in July.	Dare to Care/KFC Mayor's Cup Paddle Sports Races/Voyageur Canoe World Championships.	Louisville, KY	Ohio River, Mile 600.0–605.0 (Kentucky).
35. 2 days—Last two weeks in July or first three weeks of August.	Friends of the Riverfront Inc./Pittsburgh Triathlon and Adventure Races.	Pittsburgh, PA	Allegheny River, Mile 0.0–1.5 (Pennsylvania).
36. 1 day—Fourth weekend in July.	Team Magic/Music City Triathlon.	Nashville, TN	Cumberland River, Mile 189.7–192.3 (Tennessee).
37. 1 day—Last weekend in July	Maysville Paddlefest	Maysville, KY	Ohio River, Mile 408–409 (Kentucky).
38. 2 days—One weekend in July.	Huntington Classic Regatta	Huntington, WV	Ohio River, Mile 307.3–309.3 (West Virginia).
39. 2 days—One weekend in July.	Marietta Riverfront Roar Regatta	Marietta, OH	Ohio River, Mile 171.6–172.6 (Ohio).
40. 1 day—Last weekend in July or first weekend in August.	HealthyTriState.org/St. Marys Tri State Kayathalon.	Huntington, WV	Ohio River, Mile 305.1–308.3 (West Virginia).
41. 1 day—first Sunday in August	Above the Fold Events/Riverbluff Triathlon.	Ashland City, TN	Cumberland River, Mile 157.0–159.5 (Tennessee).
42. 3 days—First week of August	EQT Pittsburgh Three Rivers Regatta.	Pittsburgh, PA	Allegheny River mile 0.0–1.0, Ohio River mile 0.0–0.8, Monongahela River mile 0.5 (Pennsylvania).
43. 2 days—First weekend of August.	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
44. 1 day—First or second weekend in August.	Riverbluff Triathlon	Ashland City, TN	Cumberland River, Mile 157.0–159.0 (Tennessee).
45. 1 day—One of the first two weekends in August.	Green Umbrella/Ohio River Paddlefest.	Cincinnati, OH	Ohio River, Mile 458.5–476.4 (Ohio and Kentucky).
46. 2 days—Third full weekend (Saturday and Sunday) in August.	Ohio County Tourism/Rising Sun Boat Races.	Rising Sun, IN	Ohio River, Mile 504.0–508.0 (Indiana and Kentucky).
47. 3 days—Second or Third weekend in August.	Kittanning Riverbration Boat Races.	Kittanning, PA	Allegheny River mile 42.0–46.0 (Pennsylvania).

TABLE 1 TO § 100.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING MARINE EVENTS—Continued

Date	Event/sponsor	Ohio Valley location	Regulated area
48. 3 days—One of the last two weekends in August.	Thunder on the Green	Livermore, KY	Green River, Mile 69.0–72.5 (Kentucky).
49. 1 day—Fourth weekend in August.	Team Rocket Tri-Club/ Rocketman Triathlon.	Huntsville, AL	Tennessee River, Mile 332.2–335.5 (Alabama).
50. 1 day—Last weekend in August.	Tennessee Clean Water Network/Downtown Dragon Boat Races.	Knoxville, TN	Tennessee River, Mile 646.3–648.7 (Tennessee).
51. 3 days—One weekend in August.	Pro Water Cross Championships.	Charleston, WV	Kanawha River, Mile 56.7–57.6 (West Virginia).
52. 2 days—One weekend in August.	POWERBOAT NATIONALS—Ravenswood Regatta.	Ravenswood, WV	Ohio River, Mile 220.5–221.5 (West Virginia).
53. 2 days—One weekend in August.	Powerboat Nationals-Parkersburg Regatta/Parkersburg Homecoming.	Parkersburg, WV	Ohio River Mile 183.5–285.5 (West Virginia).
54. 1 day—One weekend in August.	YMCA River Swim	Charleston, WV	Kanawha River, Mile 58.3–61.8 (West Virginia).
55. 3 days—One weekend in August.	Grand Prix of Louisville	Louisville, KY	Ohio River, Mile 601.0–605.0 (Kentucky).
56. 3 days—One weekend in August.	Evansville HydroFest	Evansville, IN	Ohio River, Mile 790.5–794.0 (Indiana).
57. 3 days—One weekend in the month of August..	Owensboro HydroFair	Owensboro, KY	Ohio River, Mile 794.0–760.0 (Kentucky).
58. 1 day—First or second weekend of September.	SUP3Rivers The Southside Outside.	Pittsburgh, PA	Monongahela River mile 0.0–3.09 Allegheny River mile 0.0–0.6 (Pennsylvania).
59. 1 day—First weekend in September or on Labor Day.	Mayor's Hike, Bike and Paddle	Louisville, KY	Ohio River, Mile 601.0–610.0 (Kentucky).
60. 2 days—Sunday before Labor Day and Labor Day.	Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest.	Cincinnati, OH	Ohio River, Mile 463.0–477.0 (Kentucky and Ohio) and Licking River Mile 0.0–3.0 (Kentucky).
61. 2 days—Labor Day weekend	Wheeling Vintage Race Boat Association Ohio/Wheeling Vintage Regatta.	Wheeling, WV	Ohio River, Mile 90.4–91.5 (West Virginia).
62. 3 days- The weekend of Labor Day.	Portsmouth Boat Race/Breakwater Powerboat Association.	Portsmouth, OH	Ohio River, Mile 355.5- 356.8 (Ohio).
63. 2 days—One of the first three weekends in September.	Louisville Dragon Boat Festival	Louisville, KY	Ohio River, Mile 602.0–604.5 (Kentucky).
64. 1 day—One of the first three weekends in September.	Cumberland River Compact/ Cumberland River Dragon Boat Festival.	Nashville, TN	Cumberland River, Mile 189.7–192.1 (Tennessee).
65. 2 days—One of the first three weekends in September.	State Dock/Cumberland Poker Run.	Jamestown, KY	Lake Cumberland (Kentucky).
66. 3 days—One of the first three weekends in September.	Fleur de Lis Regatta	Louisville, KY	Ohio River, Mile 600.0–605.0 (Kentucky).
67. 1 day—Second weekend in September.	City of Clarksville/Clarksville Riverfest Cardboard Boat Regatta.	Clarksville, TN	Cumberland River, Mile 125.0–126.0 (Tennessee).
68. 1 day—One Sunday in September.	Ohio River Sternwheel Festival Committee Sternwheel race reenactment.	Marietta, OH	Ohio River, Mile 170.5–172.5 (Ohio).
69. 1 Day—One weekend in September.	Parkesburg Paddle Fest	Parkersburg, WV	Ohio River, Mile 184.3–188 (West Virginia).
70. 1 day—One weekend in September.	Shoals Dragon Boat Festival	Florence, AL	Tennessee River, Mile 255.0–257.0 (Alabama).
71. 2 days—One of the last three weekends in September.	Madison Vintage Thunder	Madison, IN	Ohio River, Mile 556.5–559.5 (Indiana).
72. 1 day—Third Sunday in September.	Team Rocket Tri Club/Swim Hobbs Island.	Huntsville, AL	Tennessee River, Mile 332.3–338.0 (Alabama).
73. 1 day—Fourth or fifth weekend in September.	Knoxville Open Water Swimmers/Bridges to Bluffs.	Knoxville, TN	Tennessee River, Mile 641.0–648.0 (Tennessee).
74. 1 day—Fourth or fifth Sunday in September.	Green Umbrella/Great Ohio River Swim.	Cincinnati, OH	Ohio River, Mile 468.8–471.2 (Ohio and Kentucky).
75 1 day—One of the last two weekends in September.	Ohio River Open Water Swim	Prospect, KY	Ohio River, Mile 587.0–591.0 (Kentucky).
76. 2 days—One of the last three weekends in September or the first weekend in October.	Captain Quarters Regatta	Louisville, KY	Ohio River, Mile 594.0–598.0 (Kentucky).
77. 3 days—One of the last three weekends in September or one of the first two weekends in October.	Owensboro Air Show	Owensboro, KY	Ohio River, Mile 754.0–760.0 (Kentucky).
78. 1 day—Last weekend in September.	World Triathlon Corporation/ IRONMAN Chattanooga.	Chattanooga, TN	Tennessee River, Mile 462.7–467.5 (Tennessee).

TABLE 1 TO § 100.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING MARINE EVENTS—Continued

Date	Event/sponsor	Ohio Valley location	Regulated area
79. 3 days—Last weekend of September and/or first weekend in October.	New Martinsville Records and Regatta Challenge Committee.	New Martinsville, WV	Ohio River, Mile 128–129 (West Virginia).
80. 2 days—First weekend of October.	Three Rivers Rowing Association/Head of the Ohio Regatta.	Pittsburgh, PA	Allegheny River mile 0.0–5.0 (Pennsylvania).
81. 1 day—First or second weekend in October.	Lookout Rowing Club/Chattanooga Head Race.	Chattanooga, TN	Tennessee River, Mile 463.0–468.0 (Tennessee).
82. 3 days—First or Second weekend in October.	Vanderbilt Rowing/Music City Head Race.	Nashville, TN	Cumberland River, Mile 189.5–196.0 (Tennessee).
83. 2 days—First or second week of October.	Head of the Ohio Rowing Race	Pittsburgh, PA	Allegheny River, Mile 0.0–3.0 (Pennsylvania).
84. 2 days—One of the first three weekends in October.	Norton Healthcare/Ironman Triathlon.	Louisville, KY	Ohio River, Mile 600.5–605.5 (Kentucky).
85. 2 days—Two days in October	Secret City Head Race Regatta	Oak Ridge, TN	Clinch River, Mile 49.0–54.0 (Tennessee).
86. 3 days—First weekend in November.	Atlanta Rowing Club/Head of the Hooch Rowing Regatta.	Chattanooga, TN	Tennessee River, Mile 463.0–468.0 (Tennessee).
87. 1 day—One weekend in November or December.	Charleston Lighted Boat Parade	Charleston, WV	Kanawha River, Mile 54.3–60.3 (West Virginia).

* * * * *

Dated: Feburary 2, 2021.

A.M. Beach,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2021–02646 Filed 2–22–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2020–0077; FXRS12610700000 FF07J00000 201]

RIN 1018–BF10

Subsistence Management Regulations for Public Lands in Alaska—2022–23 and 2023–24 Subsistence Taking of Wildlife Regulations

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for hunting and trapping seasons, harvest limits, and methods and means related to taking of wildlife for subsistence uses during the 2022–2023 and 2023–2024 regulatory years. The Federal Subsistence Board (Board) is on a schedule of completing the process of revising subsistence taking of wildlife regulations in even-numbered years and subsistence taking of fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle. When final, the resulting rulemaking will replace the existing subsistence wildlife taking regulations. This proposed rule could also amend the general regulations on subsistence taking of fish and wildlife.

DATES: *Public meetings:* The Federal Subsistence Regional Advisory Councils (Councils) will hold public meetings to receive comments and make proposals to change this proposed rule February 9 through March 18, 2021, and will hold another round of public meetings to discuss and receive comments on the proposals, and make recommendations on the proposals to the Federal Subsistence Board, on several dates between September 27 and November 4, 2021. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, in April 2022. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: Comments and proposals to change this proposed rule must be received or postmarked by May 24, 2021.

ADDRESSES: *Public meetings:* The Federal Subsistence Board and the Federal Subsistence Regional Advisory Councils' public meetings are held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

Public comments: You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for FWS–R7–SM–2020–0077, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503–6199, or hand delivery to the Designated Federal Official attending any of the Federal Subsistence Regional Advisory Council public meetings. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Sue Detwiler, Assistant Regional Director, Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Wayne Owen, Director Wildlife, Fisheries, Ecology, Watershed, & Subsistence, U.S. Department of Agriculture (USDA), Forest Service, Alaska Region; (907) 586–7916 or *wayne.owen@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (hereafter referred to as ''the Secretaries'') jointly

implement the Federal Subsistence Management Program (hereafter referred to as ''the Program''). The Program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only Alaska residents of areas identified as rural are eligible to participate in the Program. The Secretaries published temporary regulations to carry out the Program in the **Federal Register** on June 29, 1990 (55 FR 27114), and final regulations on May 29, 1992 (57 FR 22940). Program officials have subsequently amended these regulations a number of times.

Because the Program is a joint effort between the Departments of the Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): The Agriculture regulations are at title 36, ''Parks, Forests, and Public Property,'' and the Interior regulations are at title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1 through 242.28 and 50 CFR 100.1 through 100.28, respectively. Consequently, to indicate that identical changes are proposed for regulations in both titles 36 and 50, in this document we will present references to specific sections of the CFR as shown in the following example: § __.24.

The Program regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife. Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, USDA Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D. Subpart C sets forth important Board determinations regarding program eligibility, *i.e.,* which areas of Alaska are considered rural and which species are harvested in those areas as part of a ''customary and traditional use'' for subsistence purposes. Subpart D sets forth specific harvest seasons and limits.

In administering the Program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

Public Review Process—Comments, Proposals, and Public Meetings

The Federal Subsistence Regional Advisory Councils will have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board, through the Councils, will hold public meetings on this proposed rule at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council	Juneau	March 16, 2021.
Region 2—Southcentral Regional Council	Cordova	February 24, 2021.
Region 3—Kodiak/Aleutians Regional Council	Kodiak	March 3, 2021.
Region 4—Bristol Bay Regional Council	Naknek	February 9, 2021.
Region 5—Yukon–Kuskokwim Delta Regional Council	Bethel	March 3, 2021.
Region 6—Western Interior Regional Council	Fairbanks	February 17, 2021.
Region 7—Seward Peninsula Regional Council	Nome	March 11, 2021.
Region 8—Northwest Arctic Regional Council	Kotzebure	February 18, 2021.
Region 9—Eastern Interior Regional Council	Fairbanks	March 4, 2021.
Region 10—North Slope Regional Council	Utqiagvik	February 22, 2021.

During April 2021, the written proposals to change the regulations at subpart D, take of wildlife, and subpart C, customary and traditional use determinations, will be compiled and distributed for public review. Written public comments will be accepted on the distributed proposals during a second 30-day public comment period. The Board, through the Councils, will hold a second series of public meetings in August through November 2021, to receive comments on specific proposals and to develop recommendations to the Board at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council	Craig	October 19, 2021.
Region 2—Southcentral Regional Council	Anchorage	October 13, 2021.
Region 3—Kodiak/Aleutians Regional Council	Unalaska	September 27, 2021.
Region 4—Bristol Bay Regional Council	Dillingham	October 27, 2021.
Region 5—Yukon–Kuskokwim Delta Regional Council	Bethel	October 6, 2021.
Region 6—Western Interior Regional Council	Anchorage	October 13, 2021.
Region 7—Seward Peninsula Regional Council	Nome	October 26, 2021.
Region 8—Northwest Arctic Regional Council	Kotzebue	November 1, 2021.
Region 9—Eastern Interior Regional Council	Fairbanks	October 7, 2021.
Region 10—North Slope Regional Council	Utqiagvik	November 3, 2021.

A notice will be published of specific dates, times, and meeting locations in local and statewide newspapers prior to both series of meetings, in addition, this information will be shared on local radio and television announcements and postings to social media and the program website at *https://www.doi.gov/subsistence/regions.* Locations and dates may change based on weather or local circumstances. The amount of work on each Council's agenda determines the length of each Council meeting, but typically the meetings are scheduled to last 2 days. Occasionally a Council will lack information necessary during a scheduled meeting to make a recommendation to the Board or to

provide comments on other matters affecting subsistence in the region. If this situation occurs, the Council may announce on the record a later teleconference to address the specific issue when the requested information or data is available; please note that any follow-up teleconference would be an exception and must be approved, in advance, by the Assistant Regional Director for the Office of Subsistence Management. These teleconferences are open to the public, along with opportunities for public comment; the date and time will be announced during the scheduled meeting, and that same information will be announced through news releases and local radio, television, and social media ads.

The Board will discuss and evaluate proposed changes to the subsistence management regulations during a public meeting scheduled to be held in Anchorage, Alaska, in April 2022. The Federal Subsistence Regional Advisory Council Chairs, or their designated representatives, will present their respective Councils' recommendations at the Board meeting. Additional oral testimony may be provided on specific proposals before the Board at that time. At that public meeting, the Board will deliberate and take final action on proposals received that request changes to this proposed rule.

Proposals to the Board to modify the general fish and wildlife regulations, wildlife harvest regulations, and customary and traditional use determinations must include the following information:

a. Name, address, and telephone number of the requestor;

b. Each section and/or paragraph designation in this proposed rule for which changes are suggested, if applicable;

c. A description of the regulatory change(s) desired;

d. A statement explaining why each change is necessary;

e. Proposed wording changes; and

f. Any additional information that you believe will help the Board in evaluating the proposed change.

The Board immediately rejects proposals that fail to include the above information, or proposals that are beyond the scope of authorities in § __.24, subpart C (the regulations governing customary and traditional use determinations), and §§ __.25 and __.26 of subpart D (the general and specific regulations governing the subsistence take of wildlife). If a proposal needs clarification, prior to being distributed for public review, the proponent may be contacted, and the proposal could be revised based on their input. Once a proposal is distributed for public review, no additional changes may be made as part of the original submission. During the April 2022 meeting, the Board may defer review and action on some proposals to allow time for cooperative planning efforts, or to acquire additional needed information. The Board may elect to defer taking action on any given proposal if the workload of staff, Councils, or the Board becomes excessive. These deferrals may be based on recommendations by the affected Council(s) or staff members, or on the basis of the Board's intention to do least harm to the subsistence user and the resource involved. A proponent of a proposal may withdraw the proposal provided it has not been considered, and a recommendation has not been made, by a Council. The Board may consider and act on alternatives that address the intent of a proposal while differing in approach.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R7–SM–2020–0077, or by appointment, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: USFWS, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

Reasonable Accommodations

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Caron McKee, 907–786–3880, *subsistence@fws.gov,* or 800–877–8339 (TTY), seven business days prior to the meeting you would like to attend.

Tribal Consultation and Comment

As expressed in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and federally recognized Indian Tribes (Tribes) as listed in 82 FR 4915 (January 17, 2017). Consultation with Alaska Native corporations is based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Alaska National Interest Lands Conservation Act does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because Tribal members are affected by subsistence fishing, hunting, and trapping regulations, the Secretaries, through the Board, will provide federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board will commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes' and Alaska Native corporations' information, input, and recommendations, and address their concerns as much as practicable.

Developing the 2022–23 and 2023–24 Wildlife Seasons and Harvest Limit Proposed Regulations

In titles 36 and 50 of the CFR, the subparts C and D regulations are subject to periodic review and revision. The Board currently completes the process of revising subsistence take of wildlife regulations in even-numbered years and fish and shellfish regulations in odd-numbered years; public proposal and review processes take place during the

preceding year. The Board also addresses customary and traditional use determinations during the applicable cycle.

The current subsistence program regulations form the starting point for consideration during each new rulemaking cycle. Consequently, in this rulemaking action pertaining to wildlife, the Board will consider proposals to revise the regulations in any of the following sections of titles 36 and 50 of the CFR:

- § __.24: customary and traditional use determinations;
- § __.25: general provisions governing the subsistence take of wildlife, fish, and shellfish; and
- § __.26: specific provisions governing the subsistence take of wildlife.

As such, the text of the proposed 2022–24 subparts C and D subsistence regulations in titles 36 and 50 is the combined text of previously issued rules that revised these sections of the regulations. The following **Federal Register** citations show when these CFR sections were last revised. Therefore, the regulations established by these two final rules constitute the text of this proposed rule:

The text of the proposed amendments to 36 CFR 242.24 and 242.26 and 50 CFR 100.24 and 100.26 is the final rule for the 2020–2022 regulatory period for wildlife (85 FR 74796; November 23, 2020).

The text of the proposed amendments to 36 CFR 242.25 and 50 CFR 100.25 is the final rule for the 2018–20 regulatory period for wildlife (83 FR 50758; October 9, 2018).

These regulations will remain in effect until subsequent Board action changes elements as a result of the public review process outlined above in this document and a final rule is published.

Compliance With Statutory and Regulatory Authorities

National Environmental Policy Act

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of the subsistence program regulations was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the regulations will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act (PRA)

This proposed 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.*). OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075 (expires January 31, 2021, and, in accordance with 5 CFR 1320.10, the Service may continue to sponsor the collection while the renewal is pending at OMB). 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.

Regulatory Planning and Review (Executive Order 12866)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed 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 proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant economic impact on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this proposed rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Executive Order 13771

This proposed rule is not an Executive Order (E.O.) 13771 (''Reducing Regulation and Controlling Regulatory Costs'') (82 FR 9339, February 3, 2017) regulatory action because this proposed rule is not significant under E.O. 12866.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this proposed rule is not a major rule. It will not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and will 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.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these proposed regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, will provide federally recognized Tribes and Alaska Native corporations an opportunity to consult on this proposed rule. Consultations with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, will provide a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Executive Order 13211

This Executive order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted this proposed rule under the guidance of Sue Detwiler of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Chris McKee, Alaska State Office, Bureau of Land Management;
- Joshua Ream, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Carol Damberg, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Deyna Kuntzsch, Alaska Regional Office, USDA—Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend 36 CFR part 242 and 50 CFR part 100 for the 2022–23 and 2023–24 regulatory years:

The text of the proposed amendments to 36 CFR 242.24 and 242.26 and 50 CFR 100.24 and 100.26 is the final rule for the 2020–2022 regulatory period for wildlife (85 FR 74796; November 23, 2020).

The text of the proposed amendments to 36 CFR 242.25 and 50 CFR 100.25 is the final rule for the 2018–20 regulatory period for wildlife (83 FR 50758; October 9, 2018).

Sue Detwiler,

Assistant Regional Director, U.S. Fish and Wildlife Service.

Wayne Owen,

Director, Wildlife, Fisheries, Ecology, Watershed, & Subsistence, Alaska Region, USDA—Forest Service.

[FR Doc. 2021–03407 Filed 2–22–21; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2020–0352; FRL–10016–75–Region 9]

Approval of Arizona State Implementation Plan Revisions; Maricopa County Air Quality Department; Stationary Source Permits; New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on revisions to the Maricopa County Air Quality Department (MCAQD) portion of the state implementation plan (SIP) for the State of Arizona. We are proposing full approval of seven MCAQD rules for the Department's New Source Review (NSR) preconstruction permitting program for new and modified stationary sources of air pollution. We are taking comments on this proposed rule and plan to follow with a final action.

DATES: Written comments must be received on or before March 25, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2020–0352 at *https://www.regulations.gov,* or via email to *R9AirPermits@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any

comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, or if you need assistance in a language other than English, or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Shaheerah Kelly, EPA Region IX, 75 Hawthorne Street (AIR–3–1), San Francisco, California 94105. By phone at (415) 947–4156, or by email at *kelly.shaheerah@epa.gov.*

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

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The initials *ADEQ* mean or refer to the Arizona Department of Environmental Quality.

(ii) The word or initials *CAA* or *Act* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(iii) The initials *CFR* mean or refer to Code of Federal Regulations.

(iv) The initials or words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(v) The word or initials *MCAQD* or *Department* mean or refer to the Maricopa County Air Quality Department, the agency with jurisdiction over stationary sources within Maricopa County, Arizona.

(vi) The initials *NAAQS* mean or refer to the National Ambient Air Quality Standards.

(vii) The initials *NSR* mean or refer to New Source Review.

(viii) The initials *NNSR* mean or refer to nonattainment New Source Review.

(ix) The initials *PSD* mean or refer to Prevention of Significant Deterioration.

(x) The initials *SIP* means or refer to State Implementation Plan.

(xi) The word *State* means or refers to the State of Arizona.

(xii) The word *TSD* means or refers to the Technical Support Document.

I. The State's Submittal

A. What rules did the State submit?

On December 20, 2019, the ADEQ submitted the revised rules in Table 1 to the EPA as a revision to the Maricopa County portion of the Arizona SIP. The ADEQ is the governor's designee for submitting official revisions of the Arizona SIP to the EPA. These rules constitute the MCAQD's air quality preconstruction NSR permit program.

TABLE 1—MCAQD SUBMITTED RULES

Regulation & Rule No.	Rule title	Adoption or amendment date	Submitted
Regulation I, Rule 100	General Provisions; General Provisions and Definitions	12/11/2019	12/20/2019
Regulation II, Rule 200	Permits and Fees; Permit Requirements	12/11/2019	12/20/2019
Regulation II, Rule 210 [1]	Permits and Fees; Title V Permit Provisions	12/11/2019	12/20/2019
Regulation II, Rule 220	Permits and Fees; Non-Title V Permit Provisions	12/11/2019	12/20/2019
Regulation II, Rule 230	Permits and Fees; General Permits	12/11/2019	12/20/2019
Regulation II, Rule 240	Permits and Fees; Federal Major New Source Review	12/11/2019	12/20/2019
Regulation II, Rule 241	Permits and Fees; Minor New Source Review	12/11/2019	12/20/2019

On June 20, 2020, the MCAQD's Rules 100, 200, 210, 220, 230, 240, and 241 were deemed complete by operation of law in accordance with 40 CFR part 51, Appendix V.

B. Are there other versions of these rules?

On April 5, 2019, the EPA finalized full approval of MCAQD Rules 210, 220, 240, and 241, and conditional approval of Rules 100 and 200, as amended on February 3, 2016 and September 7, 2016, into the Maricopa County portion of the Arizona SIP. (*See* 84 FR 13543 (April 5, 2019), and 84 FR 18392 (May 1, 2019).) Our detailed analysis for the April 5, 2019 final SIP action is provided in the May 17, 2018 Technical Support Document (TSD) and March 18, 2019 Response to Comments.

The existing SIP-approved NSR program for new or modified stationary sources in Maricopa County consists of the rules identified in Table 2. Collectively, these rules establish the NSR permit requirements for stationary sources under the MCAQD's jurisdiction.

The rules listed in Table 1 will replace the existing SIP-approved NSR program rules listed in Table 2, in their entirety. The MCAQD made several revisions to its NSR program, including revisions for addressing the rule deficiencies identified by the EPA in our final conditional approval on April 5, 2019. The EPA's action on this SIP submittal will update the Maricopa County portion of the Arizona SIP.

[1] Rule 210 also contains requirements to address the CAA title V requirements for operating permit programs, but we are not evaluating the rule for title V purposes at this time. We will evaluate Rule 210 for compliance with the requirements of title V of the Act and the EPA's implementing regulations in 40 CFR part 70 following receipt of an official part 70 program submittal from Maricopa County containing this rule.

TABLE 2—MCAQD'S CURRENT SIP-APPROVED RULES

Regulation & rule No.	Rule title	State effective date	SIP approval date	Federal Register citation
Regulation I, Rule 2, No. 11 "Alteration or Modification".	General Provisions; Definitions	June 23, 1980	June 18, 1982	47 FR 26382
Regulation I, Rule 2, No. 27 "Dust"	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 29 "Emission"	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 34 "Existing Source Performance Standards".	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 37 "Fly Ash"	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 39 "Fuel"	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 42 "Fume"	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 55 "Motor Vehicle".	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 59 "Non-Point Source".	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 60 "Odors"	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 64 "Organic Solvent".	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 70 "Plume"	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 80 "Smoke"	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation I, Rule 2, No. 91 "Vapor"	General Provisions; Definitions	June 23, 1980	April 12, 1982	47 FR 15579
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 52 "Dust").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 56 "Emission").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 63 "Existing Source Performance Standards").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 70 "Fuel").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 71 "Fuel Burning Equipment").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 74 "Fume").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 103 "Motor Vehicle").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 114 "Non-Point Source").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 122 "Photochemically Reactive Solvent").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 123 "Plume").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 128 "Process").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 129 "Process Source").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219

TABLE 2—MCAQD'S CURRENT SIP-APPROVED RULES—Continued

Regulation & rule No.	Rule title	State effective date	SIP approval date	Federal Register citation
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 150 "Smoke").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 151 "Soot") [2].	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 160 "Supplementary Control System (SCS)").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Rule 21, Section D.1 (AZ R9–3–101, Paragraph 166 "Vapor").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 167 "Vapor Pressure").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation II, Rule 21, Section D.1 (AZ R9–3–101, Paragraph 168 "Visible Emissions").	Permits and Fees; Procedures for Obtaining an Installation Permit.	October 25, 1982 ...	August 10, 1988; Vacated; restored on January 29, 1991.	53 FR 30224; 56 FR 3219
Regulation I, Rule 100 (except Sections 200.24, 200.73, 200.104(c)).	General Provisions; General Provisions and Definitions.	February 3, 2016 ...	April 5, 2019	84 FR 13543
Regulation II, Rule 200	Permits and Fees; Permit Requirements	February 3, 2016 ...	April 5, 2019	84 FR 13543
Regulation II, Rule 210	Permits and Fees; Title V Permit Provisions.	February 3, 2016 ...	April 5, 2019	84 FR 13543
Regulation II, Rule 220	Permits and Fees; Non-Title V Permit Provisions.	February 3, 2016 ...	April 5, 2019	84 FR 13543
Regulation II, Rule 240 (except Section 305).	Permits and Fees; Federal Major New Source Review (NSR).	February 3, 2016 ...	April 5, 2019	84 FR 13543
Regulation II, Rule 241	Permits and Fees; Minor New Source Review (NSR).	February 3, 2016 ...	April 5, 2019	84 FR 13543

C. What is the purpose of the submitted rule revisions?

Section 110(a) of the CAA requires states to submit regulations that include a pre-construction permit program for new or modified stationary sources of pollutants, including a permit program as required by sections 110(a)(2) of the CAA, and parts C and D of title I of the CAA.

The purpose of the MCAQD's NSR submittal, which includes Rules 100, 200, 210, 220, 230, 240, and 241, is to implement the County's preconstruction permit program for new and modified minor sources, and new and modified major stationary sources for areas designated attainment and/or unclassifiable for the National Ambient Air Quality Standards (NAAQS), or nonattainment for at least one NAAQS.

Maricopa County is designated attainment and/or unclassifiable for all sulfur dioxide (SO_2), nitrogen dioxide (NO_X), particulate matter less than 2.5 micrometers ($PM_{2.5}$), and carbon monoxide (CO) NAAQS. Maricopa County is also designated attainment and/or unclassifiable for all ozone NAAQS outside of the Phoenix-Mesa area, and the particulate matter less than 10 micrometers (PM_{10}) NAAQS for the Maricopa County area outside of the Phoenix Planning Area.

The Phoenix-Mesa, AZ area of Maricopa County is designated as a Moderate nonattainment area for the 2008 ozone NAAQS and as a Marginal nonattainment area for the 2015 ozone NAAQS. Additionally, the Phoenix Planning Area of Maricopa County is designated as a Serious nonattainment area for the 1987 24-hour PM_{10} NAAQS. See 40 CFR 81.303.

We present our evaluation under the CAA and the EPA's implementing regulations applicable to SIP submittals and NSR permit programs in general terms below. We provide a more detailed analysis in our TSD, which is available in the docket for this proposed action.

II. The EPA's Evaluation

A. What is the background for today's proposal?

On April 5, 2019, the EPA finalized full approval of Rules 210, 220, 240, and 241, and conditional approval of Rules 100 and 200, into the Arizona SIP. 84 FR 13543.[3] We finalized conditional approval of Rules 100 and 200 because we determined that, while they mostly satisfied the statutory and regulatory requirements of CAA section 110(a)(2)(C) and part D of title I of the Act, the rules also contained deficiencies that prevented full approval. The December 20, 2019 Submittal was submitted within one year of the April 5, 2019 final action, in accordance with the requirements of CAA section 110(k)(4).

The MCAQD made several revisions to Rules 100 and 200 to address the deficiencies identified by the EPA, as well as minor revisions to Rules 210, 220, 240, and 241 to address EPA

[2] The correct citation for the definition of "Soot" is Rule 21, Section D.1 (AZ R9–3–101, Paragraph 151), and not Paragraph 152 which was in the April 5, 2019 final action.

[3] On May 1, 2019, the EPA published a final rule to correct an error in the regulatory text for the April 5, 2019 action. (See 84 FR 18392.)

recommendations. The MCAQD also adopted new Rule 230. These revisions are discussed in the TSD, which can be found in the docket for this rule.

B. How is the EPA evaluating the rules?

The EPA has reviewed the MCAQD rules listed in Table 1 for compliance with the CAA's general requirements for SIPs in CAA section 110(a)(2), for the PSD program in part C of title I (section 165), and for the nonattainment NSR programs in part D of title I (sections 172 and 173). The EPA also evaluated the rules for compliance with the CAA requirements for SIP revisions in CAA sections 110(l) and 193. In addition, the EPA evaluated the submitted rules for consistency with the regulatory provisions of 40 CFR part 51, subpart I (Review of New Sources and Modifications) (*i.e.,* 40 CFR 51.160–51.166) and 40 CFR 51.307.

Sections 110(a)(2) and 110(l) of the Act require that each SIP or revision to a SIP submitted by a state must be adopted after reasonable notice and public hearing. In addition, section 110 of the Act requires that SIP rules be enforceable.

Section 110(a)(2)(C) of the Act requires each SIP to include a program to regulate the modification and construction of any stationary source within the areas covered by the SIP as necessary to assure attainment and maintenance of the NAAQS. The EPA's regulations at 40 CFR 51.160–51.164 provide general programmatic requirements to implement this statutory mandate commonly referred to as the ''general'' or ''minor'' NSR program. These NSR program regulations impose requirements for approval of state and local programs that are more general in nature as compared to the specific statutory and regulatory requirements for NSR permitting programs under parts C and D of title I of the Act.

Part C of title I of the Act, and the implementing regulations at 40 CFR 51.166, contain the requirements for states to establish preconstruction permitting programs for the prevention of significant deterioration of air quality (PSD) in areas designated as attainment and/or unclassifiable for the NAAQS. The PSD program requirements under part C apply to major stationary sources and major modifications, as those terms are defined in 40 CFR 51.166, at stationary sources located within attainment and/or unclassifiable areas. The PSD requirements apply to all regulated NSR pollutants, except those pollutants for which an area has been designated as nonattainment.

Part D of title I of the Act contains the general requirements for areas designated nonattainment for a NAAQS (section 172), referred to as nonattainment NSR (NNSR), including preconstruction permit requirements for new major sources and major modifications proposing to construct in nonattainment areas (section 173). 40 CFR 51.165 sets forth the EPA's regulatory requirements for SIP-approval of a nonattainment NSR permit program.

The protection of visibility requirements that apply to NSR programs are contained in 40 CFR 51.307. This provision requires that certain actions be taken in consultation with the local Federal Land Manager if a new major source or major modification may have an impact on visibility in any mandatory Federal Class I Area.

Section 110(l) of the Act prohibits the EPA from approving any SIP revisions that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA. Section 193 of the Act, which only applies in nonattainment areas, prohibits the modification of a SIP-approved control requirement in effect before November 15, 1990, in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.

Our TSD, which can be found in the docket for this rule, contains a more detailed discussion of the approval criteria.

C. Do the rules meet the evaluation criteria?

The EPA has reviewed the submitted rules in accordance with the rule evaluation criteria described above. With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. Based on our review of the public process documentation included in the December 20, 2019 Submittal, we find that the MCAQD has provided sufficient evidence of public notice, and an opportunity for comment and a public hearing prior to adoption and submittal of these rules to the EPA.

With respect to substantive requirements, we have reviewed the revisions to the submitted rules in accordance with the evaluation criteria discussed above. These revisions included (1) rule changes that address the deficiencies related to the conditional approval of Rules 100 and 200; (2) new Rule 230; (3) new rule provisions in Rules 100 and 240; (4) deleted rule provisions; and (5) other general revisions. These revisions are discussed below, and in greater detail in the TSD for this rulemaking action.

Corrections to Deficiencies Identified in the Conditional Approval of Rules 100 and 200

On April 5, 2019, the EPA finalized conditional approval of Rules 100 and 200, as amended on February 3, 2016, because we determined that, while they mostly satisfy the statutory and regulatory requirements of CAA section 110(a)(2)(C) and part D of title I of the Act, the rules also contained deficiencies that prevented full approval. (*See* 84 FR 13543.) As part of the conditional approval, the MCAQD and the ADEQ committed to address the deficiencies by providing the EPA with a SIP revision within one year of the April 5, 2019 final action. The December 20, 2019 Submittal addresses these deficiencies as follows:

1. The EPA determined that the definition of ''Good Engineering Practice (GEP) Stack Height'' in Rule 200, Section 201 was inconsistent with the definition for this term provided in 40 CFR 51.100(ii), and therefore deficient.

To address this deficiency the MCAQD deleted (1) the definition of GEP stack height in Rule 200, Section 201; and (2) the stack height procedures in Rule 240, Section 302.5 (Application Completeness) and Section 306 (Stack Height and Dispersion Techniques). The MCAQD also revised Rule 200, Section 314 (Stack Height Provisions) to add a reference to 40 CFR 51.100 for determining GEP stack height. These revisions correct the deficiency.

2. The EPA determined that the MCAQD must provide a basis under 40 CFR 51.160(e) to demonstrate that regulation of the equipment (*i.e.,* agricultural equipment used in normal farm operations) exempted in Rule 200, Section 305.1.c is not needed for the MCAQD's program to meet federal NSR requirements for attainment and maintenance of the NAAQS or review for compliance with the control strategy.

To address this deficiency the MCAQD deleted the exemption in Rule 200, Section 305.1.c, and replaced it with a revised exemption in new Section 305.2(i), which applies to fugitive emissions from agricultural equipment used in normal farm operations. The revised rule provides that agricultural equipment used in normal farm operations does not include equipment that would otherwise require a permit under title V of the Act, or equipment that is subject

to a standard under 40 CFR parts 60, 61 or 63. The revised exemption is consistent with Arizona State law in the Arizona Revised Statutes (ARS) 49–480(A), 49–425, and 49–426(B) and with the ADEQ regulations in the Arizona Administrative Code (AAC) R18–2–302(C). These revisions correct the deficiency.

3. The EPA determined that Rule 200, Section 403.2 did not ensure the continuity of the NSR terms and conditions when a Title V or Non-Title V permit expired and was therefore deficient. The MCAQD added Rule 200, Section 403.2(c), which states ''The terms and conditions of installation permits issued before September 1, 1993, or in permits or permit revisions issued under Rule 210 or Rule 220 of these rules and authorizing the construction or modification of a stationary source, remain federal applicable requirements unless modified or revoked by the Control Officer.'' This provision is the same as the ADEQ's AAC R18–2–303(B). This revision corrects the deficiency.

4. The EPA determined that references to Appendix G (Incorporated Materials) in certain provisions in Rules 100 and 200 were deficient because Appendix G was neither included in the existing SIP nor was it submitted by the MCAQD for EPA-approval in the SIP. The MCAQD removed references to Appendix G, and instead cited the appropriate federal regulations in the code of federal regulations in the Rule 100 definitions of ''AP–42'', ''Non-Precursor Compound'', ''Reference Material'', and in Rule 100, Section 503 (Emission Statements Required as Stated in the Act), and Rule 200, Section 314 (Stack Height Provisions). These revisions correct the deficiency.

5. The EPA determined that references to the Arizona Testing Manual (ATM) in Rules 100 and 200 were deficient because they relied on provisions that were not SIP-approved, and because the ATM is significantly out of date and not appropriate to be relied upon as the sole basis for testing procedures. The MCAQD removed these references from the Rule 100 definition of ''Reference Method'', and from Rule 200, Section 408 (Testing Procedures). The MCAQD retained the Rule 100 definition of ''Arizona Testing Manual'', which is the same as the ADEQ's AAC R18–2–101(17). These revisions correct the deficiency.

6. The EPA determined that certain definitions that the MCAQD proposed be removed from the approved SIP could not be removed without further justification. In its December 20, 2019 Submittal, the MCAQD provided adequate justifications for removing the following definitions from Regulation I, Rule 2, and Regulation II, Rule 21, Section D.1, of the SIP: ''Alternation or Modification'', ''Begin Actual Construction'', ''Dust'', ''Emission'', ''Existing Source Performance Standards'', ''Fly Ash'', ''Fuel'', ''Fuel Burning Equipment'', ''Fume'', ''Motor Vehicle'', ''Non-Point Source'', ''Odors'', ''Organic Solvent'', ''Photochemically Reactive Solvent'', ''Plume'', ''Process'', ''Process Source'', ''Smoke'', ''Soot'', ''Supplementary Control System (SCS)'', ''Vapor'', ''Vapor Pressure'', and ''Visible Emissions''. In general, the MCAQD's justifications for removing these definitions are because (a) the definition has been replaced by a new definition in Rule 100, Section 200, (b) there are no references to the defined term in the MCAQD's regulations, (c) the definition does not support any SIP rules, (d) the definition is outdated and/or substantively the same as a definition that was incorporated by reference in Rule 240, or (e) the definition is a common term for which the MCAQD will use the dictionary definition of the term. The EPA finds that the removal of these definitions is acceptable.

New Rule 230

Rule 230 is a new rule for General Permits. It allows the issuance of General permits for a facility class that contains a large number of sources that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting, or recordkeeping. The owner or operator of a new or modified source is also required to comply with the applicable NSR requirements. As explained in the TSD for this rulemaking, Rule 230 is consistent with the CAA and the EPA's implementing regulations in 40 CFR 51.160–51.164.

New Provisions in Rules 100 and 240

The MCAQD added the following new definitions to Rule 100: ''Begin Actual Construction'', ''Dust'', ''Emission'', ''Fuel'', ''Fume'', ''Gasoline'', ''Greenhouse Gases (GHGs)'', ''Minor NSR Modification Threshold'', ''Modification'', ''Motor Vehicle'', ''Non-Road Internal Combustion (IC) Engine'', ''Off-Specification Used Oil'', ''On-Specification Used Oil'', ''Organic Solvent'', ''Plume'', ''Process'', ''Regulated Air Pollutant'', ''Seasonal Source'', ''Smoke'', ''Soot'', ''Used Oil'', ''Vapor'', ''Visible Emissions'', and ''Year.'' The MCAQD also added ''Compliance Schedule for Newly Amended Rule Provisions'' in Rule 100, Section 403. These revisions are consistent with the CAA and the EPA's implementing regulations in 40 CFR 51.160–51.164.

The MCAQD also added new PSD program provisions in Rule 240. Section 305.2 of Rule 240 requires all new and modified sources to meet specific provisions of 40 CFR 52.21, as incorporated by reference. Currently, the MCAQD implements a federal PSD permit program pursuant to a delegation agreement under 40 CFR 52.21(u), which allows the MCAQD to issue PSD permits, and to modify and extend existing PSD permits. Normally, following SIP approval of a federal PSD permit program, any existing PSD delegation agreement would be terminated. However, because the MCAQD is prohibited under state law from regulating GHG emissions, upon SIP approval of Rule 240, the EPA will terminate the existing PSD delegation agreement and enter a new PSD delegation agreement limited to the issuance of PSD permits that regulate GHG emissions. This will allow the MCAQD to continue issuing complete PSD permits for all sources under its jurisdiction. These changes are consistent with part C of title I of the CAA and the EPA's implementing regulations at 40 CFR 51.166.

Deleted Rule Provisions

The MCAQD deleted certain redundant PSD-related definitions from Rule 100, as they are now incorporated by reference in Rule 240, Section 200. The EPA finds these deletions from Rule 100 acceptable.

The MCAQD deleted the following rule provisions because they are addressed in other rule provisions: (1) The definition of ''GEP Stack Height'' from Rule 200, the stack height procedures from Rule 240, Section 302.5, and the stack height and dispersion technique provisions from Rule 240, Section 306; (2) the exemptions for trivial activities, food processing equipment, general combustion equipment, surface coating and printing equipment, solvent cleaning equipment, internal combustion equipment, laboratories and pilot plants, storage and distribution, and miscellaneous activities from Rule 200, Section 305; (3) the Minor NSR Transition rule provision from Rule 200, Section 313; (4) the emissions thresholds of 0.5 tons per year (tpy) of hazardous air pollutants, and 2 tpy of any regulated air pollutant from Rule 200, Section 305; (5) provisions concerning obtaining a permit prior to renting or leasing a portable source from Rule 200, Section 410.3; (6) certain

procedures for changes that do not require a Non-Title V Permit from Rule 220, Section 404.3.e.; (7) the requirements for holding a public hearing from Rule 241, Section 310; and (8) the source obligation provision from Rule 241, Section 315. These requirements were moved to other rules or are already addressed in existing rules. The EPA finds these revisions acceptable.

Other General Rule Revisions

The MCAQD made several other minor wording and administrative changes to Rules 100, 200, 210, 220, 240, and 241. As discussed further in our TSD, these rule revisions are acceptable.

We are proposing to fully approve Rules 100, 200, 210, 220, 230, 240 and 241 as part of the MCAQD's general and NSR permitting programs because we have determined that these rules satisfy the substantive statutory and regulatory requirements of section 110(a)(2)(C) of the Act, parts C and D of title I of the Act, 40 CFR 51.160–51.166, and 40 CFR 51.307. Our TSD for this rulemaking contains a more detailed evaluation.

III. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the MCAQD Rules 100, 200, 210, 220, 230, 240, and 241, because they fulfill all relevant requirements. We are accepting comments from the public on this proposal until March 25, 2021. If we finalize this action as proposed, our action would be codified through revisions to 40 CFR 52.120 (Identification of plan).

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the MCAQD rules listed in Table 1 of this notice. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and at the EPA Region IX Office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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);

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, New source review, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 5, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021–02908 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2020–0560; EPA–HQ–OAR–2020–0535; EPA–HQ–OAR–2020–0572; EPA–HQ–OAR–2020–0148; EPA–HQ–OAR–2020–0505; EPA–HQ–OAR–2020–0532; FRL–10020–46–OAR]

RIN 2060–AU59; 2060–AU65; 2060–AU57; 2060–AU67; 2060–AU66; 2060–AU64

National Emission Standards for Hazardous Air Pollutants: Mercury Cell Chlor-Alkali Plants, Primary Magnesium Refining, Flexible Polyurethane Foam Fabrication Operations, Refractory Products Manufacturing, Carbon Black Production, and Cyanide Chemicals Manufacturing Residual Risk and Technology Reviews; Extension of Comment Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rules; extension of public comment periods.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is exending comment periods for proposed rules titled ''National Emission Standards for Hazardous Air Pollutants: Mercury Cell Chlor-Alkali Plants Residual Risk and Technology Review'' and ''National Emission Standards for Hazardous Air Pollutants: Primary Magesium Refining Residual Risk and Technology Review,'' published on January 8, 2021, ''National Emission Standards for Hazardous Air Pollutants: Flexible Foam Fabrication Operations Residual Risk and Technology Review and Flexible Polyurethane Foam Production and Fabrication Area Source Technology Review,'' published on January 11, 2021, ''National Emission Standards for Hazardous Air Pollutants: Refractory Products Manufacturing Residual Risk and Technology Review'' and ''National Emission Standards for Hazardous Air Pollutants: Carbon Black Production Residual Risk and Technology Review,'' published January 14, 2021, and ''National Emission Standards for Hazardous Air Pollutants: Cyanide Chemicals Manufacturing Residual Risk and Technology Review,'' published on January 15, 2021, to allow additional time for stakeholders to review and comment on the proposals.

DATES: The public comment periods for the proposed rules published in the **Federal Register** on January 8, 2021 (86 FR 1362 and 86 FR 1390), originally ending February 22, 2021, are being extended. Written comments may now be received on or before March 24, 2021.

The public comment period for the proposed rule published in the **Federal Register** on January 11, 2021 (86 FR 1868), originally ending February 25, 2021, is being extended. Written comments may now be received on or before March 29, 2021.

The public comment period for the proposed rules published in the **Federal Register** on January 14, 2021 (86 FR 3079 and 86 FR 3054) and January 15, 2021 (86 FR 3906), originally ending March 1, 2021, are being extended. Written comments may now be received on or before March 31, 2021.

ADDRESSES: *Comments.* Submit your comments, identified by the Docket ID Number corresponding to the proposed rule on which you are commenting (EPA–HQ–OAR–2020–0560; EPA–HQ–OAR–2020–0535; EPA–HQ–OAR–2020–0572; EPA–HQ–OAR–2020–0148560; EPA–HQ–OAR–2020–0505; or EPA–HQ–OAR–2020–0532) by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include the appropriate Docket ID No. in the subject line of the message.
- *Fax:* (202) 566–9744. Include the appropriate Docket ID No. on the fax cover page.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Include the appropriate Docket ID No. based on the rule you are commenting on, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery (by scheduled appointment only):* EPA Docket Center, Room 3334, WJC West Building, 1301 Constitution Avenue NW, Washington, DC 20460. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Eastern Standard Time, Monday through Friday (except federal holidays).

Instructions: All submissions received must include the Docket ID No. for the rulemaking on which you are commenting. The EPA's policy is that all comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statue.

Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA's Docket Center homepage at *https://www.epa.gov/dockets.*

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mail and faxes. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.* Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.* The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention, local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID–19.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention {Include the appropriate Docket ID No. based on the rule you are commenting on}.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Brian Shrager, Sector Policies and Programs Division (D205–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–7689; fax number: (919) 541–4991; and email address: *shrager.brian@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 8, 2021, the U.S. Environmental Protection Agency (EPA) proposed a rule titled ''National Emission Standards for Hazardous Air Pollutants: Mercury Cell Chlor-Alkali Plants Residual Risk and Technology Review,'' and a rule titled ''National Emission Standards for Hazardous Air Pollutants: Primary Magesium Refining Residual Risk and Technology Review.'' The EPA is extending the comment period on these proposed rules that currently closes on February 22, 2021. The comment periods will remain open until March 24, 2021, to allow additional time for stakeholders to review and comment on the proposals. On January

11, 2021, the EPA proposed a rule titled ''National Emission Standards for Hazardous Air Pollutants: Flexible Foam Fabrication Operations Residual Risk and Technology Review and Flexible Polyurethane Foam Production and Fabrication Area Source Technology Review.'' The EPA is extending the comment period on this proposed rule that currently closes on February 25, 2021. The comment period will remain open until March 29, 2021, to allow additional time for stakeholders to review and comment on the proposal. On January 14, 2021, the EPA proposed a rule titled ''National Emission Standards for Hazardous Air Pollutants: Refractory Products Manufacturing Residual Risk and Technology Review,'' and a rule titled ''National Emission Standards for Hazardous Air Pollutants: Carbon Black Production Residual Risk and Technology Review,'' and on January 15, 2021, the EPA proposed a rule titled ''National Emission Standards for Hazardous Air Pollutants: Cyanide Chemicals Manufacturing Residual Risk and Technology Review.'' The EPA is extending the comment periods on these proposed rules that currently closes on March 1, 2021. The comment periods will remain open until March 31, 2021, to allow additional time for stakeholders to review and comment on the proposals.

To allow for additional time for stakeholders to provide comments, the EPA has decided to extend the public comment periods as indicated in the **DATES** section of this document.

Dated: February 16, 2021.

Panagiotis Tsirigotis,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2021–03374 Filed 2–19–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R06–RCRA–2020–0379; FRL–10017–28—Region 6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to modify an exclusion from the lists of hazardous waste previously granted to American Chrome and Chemical (Petitioner), in Corpus Christi, Texas. This action responds to a petition for amendment to exclude (or ''delist'') up to 1,450 cubic yards per year of K006 chromic oxide solids from the list of federal hazardous wastes when disposed of in an on-site surface impoundment in lieu of disposal in a Subtitle D Landfill. The Agency is proposing to grant the petition based on an evaluation of waste-specific information provided by the petitioner.

DATES: Comments on this proposed amendment must be received by March 25, 2021.

ADDRESSES: Submit your comments by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email: shah.harry@epa.gov.*

Instructions: EPA must receive your comments by March 25, 2021. Direct your comments to Docket ID Number EPA–R06–RCRA–2020–0379. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The Federal *regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment with any CD you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov.* 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, will be publicly available only in hard copy.

You can view and copy the delisting petition and associated publicly available docket materials either through *www.regulations.gov* at: EPA, Region 6, 1201 Elm Street, Suite 500, Dallas, Texas 75270. The EPA facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Harry Shah, at (214) 665–6457, before visiting the Region 6 office. Interested persons wanting to examine these documents should make an appointment with the office.

FOR FURTHER INFORMATION CONTACT: Harry Shah, (214) 665–6457, *shah.harry@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov,* as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

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I. Overview Information

The EPA is proposing to grant an amendment to the petition submitted by American Chrome and Chemical (Petitioner), in Corpus Christi, Texas to exclude (or ''delist'') up to 1,450 cubic yards per year of K006 chromic oxide solids from the list of federal hazardous waste set forth in 40 Code of Federal Regulations CFR 261.32. The Petitioner claims that the petitioned waste do not meet the criteria for which the EPA listed it, and that there are no additional constituents or factors which could cause the waste to be hazardous. The original delisting petition was submitted to EPA in April 17, 2002 and made final on September 21, 2004. Full facility descriptions and information are provided in the proposed rulemaking (68 FR 64834, November 17, 2003). Based on our review described in Section III, we propose to approve the amendment, and allow the delisted waste to be disposed in the on-site surface impoundment in addition to an off-site Subtitle D landfill.

II. Background

A. What laws and regulations give EPA the authority to delist waste?

EPA published amended lists of hazardous wastes from non-specific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA. These lists have been amended several times and are found at 40 CFR 261.31 and 261.32.

We list these wastes as hazardous because: (1) They typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of 40 CFR part 261 (*i.e.,* ignitability, corrosivity, reactivity, and toxicity), or (2) they meet the criteria for listing contained in 40 CFR 261.11(a)(2) or (3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be.

For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure which allows a person to demonstrate that a specific listed waste from a particular generating facility should not be regulated as a hazardous waste, and should, therefore, be delisted.

According to 40 CFR 260.22(a)(1), in order to have these wastes excluded a petitioner must first show that wastes generated at its facility do not meet any of the criteria for which the wastes were listed. The criteria which we use to list wastes are found in 40 CFR 261.11. An explanation of how these criteria apply to a particular waste is contained in the background document for that listed waste.

In addition to the criteria that we considered when we originally listed the waste, we are also required by the provisions of 40 CFR 260.22(a)(2) to consider any other factors (including additional constituents), if there is a reasonable basis to believe that these factors could cause the waste to be hazardous.

In a delisting petition, the petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics defined in Subpart C of 40 CFR part 261 (*i.e.,* ignitability, corrosivity, reactivity, and toxicity), and must present sufficient information for EPA to determine whether the waste contains any other constituents at hazardous levels

A generator remains obligated under RCRA to confirm that its waste remains non-hazardous based on the hazardous waste characteristics defined in Subpart C of 40 CFR part 261 even if EPA has delisted its waste.

We also define residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes as hazardous wastes. (See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), referred to as the ''mixture'' and ''derived-from'' rules, respectively.) These wastes are also eligible for exclusion but remain hazardous wastes until delisted.

B. What is currently delisted at the Petitioner's Corpus Christi, TX facility?

On April 17, 2002, American Chrome and Chemical petitioned the EPA to exclude from the list of hazardous waste contained in Sec. 261.32, the dewatered sludge generated from its facility located in Corpus Christi, Texas. The waste, the EPA Hazardous Waste No. K006, falls under the classification of listed waste because of the ''derived-from'' rule in Sec. 261.3.

Specifically, in its petition, the Petitioner requested that the EPA grant an exclusion for 1,450 cubic yards per year of dewatered sludge resulting from its process of manufacturing chromic oxide. The resulting waste is listed, in accordance with the ''derived-from'' rule.

The Petitioner's wastewater sludge contains approximately 11% solids. The petitioned waste is only the dewatered portion of the sludge, not the entire sludge (solids and wastewater) that is generated from the current wastewater treatment process. Currently, the Petitioner discharges the wastewater through Outfall 201, into an on-site storage tank. The discharge is permitted by Texas Commission on Environmental Quality (TCEQ) through a Texas Pollution Discharges Elimination System (TPDES) Permit No. 003490 (EPA NPDES Permit No. TX0004685).

In support of its petition, the Petitioner submitted sufficient information to EPA to allow us to determine that the waste was not hazardous based upon the criteria for which it was listed and that no other hazardous constituents were present in the waste at levels of regulatory concern.

A full description of these wastes and the Agency's evaluation of the 2002 petition are contained in the Proposed Rule and Request for Comments published in the **Federal Register** on November 17, 2003 (68 FR 64834).

After evaluating public comment on the Proposed Rule, we published a final decision in the **Federal Register** on September 21, 2004, (69 FR 56357) to exclude the Petitioner's dewatered chromic oxide sludge derived from the treatment of EPA Hazardous Waste No. K006 from the list of hazardous wastes found in 40 CFR 261.31.

EPA's final decision in 2004 was conditioned on the disposal of the material in an off-site Subtitle C landfill at an annual waste volume generation of 1,450 cubic yards of K006 dewatered sludge. Any additional waste volume in excess of this limit generated by Petitioner in a calendar year was to have been managed as hazardous waste. The waste could not be managed in any other waste unit.

C. What does Petitioner request in its petition for amendment?

In an effort to reduce disposal costs and the administrative burdens of waste tracking, notification, and recording requirements, Petitioner petitioned EPA on December 3, 2019 for an amendment to its September 21, 2004 final exclusion. In its petition, Petitioner requested to add the disposal scenario of surface impoundment as a management option for the chromic oxide wastes. The volume of waste is set at a maximum annual generation of 1,450 cubic yards.

III. Disposition of Petition Amendment

A. What information did the Petitioner submit to support its petition for amendment?

The exclusion which we granted to the Petitioner on September 21, 2004, is

a conditional exclusion. No more than 1,450 cubic yards of waste per year can be disposed of in an off-site Subtitle D Landfill. Disposal in the on-site Surface Impoundment #3 (Texas Notice of Registration Waste Unit 22) was not approved.

In order to support its Petition for Amendment, the Petitioner submitted four new samples of the waste material and the disposal scenario of the surface impoundment was modeled using the Delisting Risk Assessment Software. The worst-case scenario of the constituents' concentrations for the K006 sludge were used as input in the model to determine if it would meet the hazardous waste criteria for which it was listed. The maximum total and leachate concentrations for the inorganic constituents which were found in the analytical data provided by Petitioner are presented in Table 1.

TABLE 1—MAXIMUM TOTAL AND TCLP CONCENTRATIONS

Chemical name	Maximum total concentration (mg/kg)	Maximum TCLP concentration (mg/l)
Arsenic	9.54	<0.005
Barium	20.8	0.034
Chromium	350,836	0.563
Thallium	<6.72	<0.05
Zinc	136	0.020

B. What factors did EPA consider in deciding whether to grant a delisting petition?

In reviewing this petition, we considered the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2) through (4). We evaluated the petitioned wastes against the listing criteria and factors cited in § 261.11(a)(2) and (3).

In addition to the criteria in 40 CFR 260.22(a), 261.11(a)(2) and (3), 42 U.S.C. 6921(f), and in the background documents for the listed wastes, EPA also considered any factors (including additional constituents) other than those for which we listed the waste if these additional factors could cause the waste to be hazardous.

Our proposed decision to grant the amendment to the 2004 petition to delist the waste from Petitioner's facility in Corpus Christi, Texas is based on our evaluation of the wastes for factors or criteria which could cause the waste to be hazardous. These factors included: (1) Whether the waste is considered acutely toxic; (2) the toxicity of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the constituents to migrate and to bioaccumulate; (5) the persistence in the environment of any constituents once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

The EPA must also consider as hazardous wastes mixtures containing listed hazardous wastes and wastes derived from treating, storing, or disposing of listed hazardous waste. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. Mixture and derived-from wastes are also eligible for exclusion but remain hazardous until excluded.

C. How did the EPA evaluate the risk of delisting this waste?

For this delisting determination, we evaluated the risk that the waste would be disposed of as a non-hazardous waste in a surface impoundment. We considered transport of waste constituents through groundwater, surface water and air. We evaluated Petitioner's analysis of petitioned waste using the DRAS software to predict the concentration of hazardous constituents that might be released from the petitioned waste and to determine if the waste would pose a threat to human health and the environment. The DRAS software and associated documentation can be found at *www.epa.gov/hw/hazardous-waste-delisting-risk-assessment-software-dras.*

To predict the potential for release to groundwater from landfilled wastes and subsequent routes of exposure to a receptor, the DRAS uses dilution attenuation factors derived from the EPA's Composite Model for leachate migration with Transformation Products. From a release to ground water, the DRAS considers routes of exposure to a human receptor through ingestion of contaminated groundwater, inhalation from groundwater while showering and dermal contact from groundwater while bathing.

From a release to surface water by erosion of waste from an open landfill into storm water run-off, DRAS evaluates the exposure to a human receptor by fish ingestion and ingestion of drinking water. From a release of waste particles and volatile emissions to air from the surface of an open landfill, DRAS considers routes of exposure of inhalation of volatile constituents, inhalation of particles, and air deposition of particles on residential soil and subsequent ingestion of the contaminated soil by a child. The technical support document and the user's guide to DRAS are available at *https://www.epa.gov/hw/hazardous-waste-delisting-risk-assessment-software-dras.*

D. What did EPA conclude?

The Petitioner does not believe that the petitioned waste meets the criteria of K006 for which the EPA listed it. The Petitioner also believes no additional constituents or factors could cause the waste to be hazardous. The Petitioner also believes that disposal in the on-site surface impoundment will not adversely impact human health and the environment. The EPA's review of this petition included consideration of the original listing criteria, and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(1) through (4) (hereinafter all sectional references are to 40 CFR unless otherwise indicated). In making the initial delisting determination, the EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (3). Based on this review, the EPA agrees with the Petitioner that the petitioned waste is nonhazardous with respect to the original listing criteria. (If the EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, the EPA would have

proposed to deny the petition.) The EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. The EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. The EPA's proposed decision to delist waste from Petitioner's facility is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the Corpus Christi, Texas facility.

IV. Conditions for Exclusion

A. How will the Petitioner manage the waste if it is delisted?

If the petitioned wastes are delisted as proposed, the Petitioner must dispose of them in a Subtitle D landfill which is permitted, licensed, or registered by a state to manage industrial waste or in the on-site surface impoundment.

B. What are the maximum allowable concentrations of hazardous constituents in the waste?

EPA notes that in multiple instances the maximum allowable total constituent concentrations provided by the DRAS model exceed 100% of the waste—these DRAS results are an artifact of the risk calculations that do not have physical meaning. In instances where DRAS predicts a maximum constituent greater than 100 percent of the waste (that is, greater than 1,000,000 mg/kg or mg/L, respectively, for total and TCLP concentrations), the EPA is not proposing to require the Petitioners to perform sampling and analysis for that constituent and sampling type (total or TCLP).

C. How frequently must the Petitioner test the waste?

The testing approach for introduction of this waste stream will be conducted in a graduated approach. During the first thirty days of sending the delisted waste to the surface impoundment, The Petitioner will collect slurry samples from the influent to the surface impoundment to determine compliance with the delisting parameters. The Petitioner will prepare a monthly report to determine if the delisted waste in compliance with the delisting parameters. If compliance with the delisting parameters is demonstrated with analytical testing for thirty days, the Petitioner may decrease its sampling frequency for this exclusion to quarterly sampling reporting on the delisting exclusion. This does not supercede the discharge permit requirements, it gives only requirements for the submission of delisted waste related data. If two consecutive quarterly delisting reports show compliance with the delisting parameters, the Petitioner may request to move to annual sampling for the purposes of the delisting. The annual sampling report shall include the volume of chromic oxide solids disposed of in the surface impoundment as well as an annual testing event data. The petitioner should monitor and report increasing trends of constituents which will affect the overall compliance with the discharge permit.

Thirty days after disposal in the on-site surface impoundment begins, wastewater samples should be taken at Outfall 101 as prescribed by the discharge permit issued by the Texas Commission on Environmental Quality (TCEQ) through a Texas Pollution Discharge Elimination System (TPDES) Permit No. 003490 (EPA NPDES Permit No. TX0004685). Discharge from Outfall 101 is intermittent to control freeboard. At a minimum, an annual sampling event should be conducted at Outfall 101. A summary of the Outfall 101 discharge data shall be included in the annual report.

D. What data must the Petitioner submit?

The Petitioner must submit the data obtained through verification testing to U.S. EPA Region 6, Office of Land, Chemicals and Redevelopment, 1201 Elm Street, Suite 500, M/C 6LCR–RP, Dallas, Texas 75270–2102. within 10 days after receiving the final results from the laboratory. These results may be submitted electronically to Harry Shah, *shah.harry@epa.gov.* The Petitioner must make those records available for inspection. All data must be accompanied by a signed copy of the certification statement in 40 CFR 260.22(i)(12).

E. What happens if the Petitioner fails to meet the conditions of the exclusion?

If this Petitioner violates the terms and conditions established in the exclusion, the Agency may start procedures to withdraw the exclusion. Additionally, the terms of the exclusion provide that ''[a]ny waste volume for which representative composite sampling does not reflect full compliance with the exclusion criteria must continue to be managed as hazardous.''

If the verification testing of the waste does not demonstrate compliance with the delisting concentrations described in section IV.C above, or other data (including but not limited to leachate data or groundwater monitoring data from the final land disposal facility) relevant to the delisted waste indicates that any constituent is at a concentration in waste above specified delisting verification concentrations in Table 5, the Petitioner must notify the Agency within 10 days, or such later date as the EPA may agree to in writing, after receiving the final verification testing results from the laboratory or of first possessing or being made aware of other relevant data. The EPA may require the Petitioner to conduct additional verification sampling to better define the particular volume of wastes within the affected unit that does not fully satisfy delisting criteria. For any volume of wastes for which the corresponding representative sample(s) do not reflect full compliance with delisting exclusion levels, the exclusion by its terms does not apply, and the waste must be managed as hazardous.

EPA has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978*) et seq.* to reopen a delisting decision if we receive new information indicating that the conditions of this exclusion have been violated or are otherwise not being met.

F. What must the Petitioner do if the process changes?

Any process changes or additions implemented at Petitioner's facility which would significantly impact the constituent concentrations of the waste must be reported to EPA in accordance with Condition VI. of the exclusion language.

V. When would the EPA finalize the proposed delisting exclusion?

HSWA specifically requires EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not make a final decision or grant an exclusion until it has addressed all timely public comments on today's proposal, including any at public hearings. Upon receipt and consideration of all comments, EPA will publish its final determination as a final rule. Since this rule would reduce the existing requirements for persons generating hazardous wastes, the regulated community does not need a six-month period to come into compliance in accordance with

section 3010 of RCRA as amended by HSWA.

VI. How would this action affect the states?

Because EPA is proposing to issue this exclusion under the federal RCRA delisting regulations, only states subject to federal RCRA delisting provisions will be affected. This exclusion may not be effective in states which have received authorization from the EPA to make their own delisting decisions.

RCRA allows states to impose more stringent regulatory requirements under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. We urge petitioners to contact the state regulatory authority to establish the status of their wastes under the state law.

EPA has also authorized some states to administer a delisting program in place of the federal program, that is, to make state delisting decisions. Therefore, this exclusion does not apply in those states. If the Petitioner manages the wastes in any state with delisting authorization, the Petitioner must obtain delisting authorization or other determination from the receiving state before it can manage the waste as nonhazardous in that state.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This proposed action is exempt from review by the Office of Management and Budget because it is a rule of particular applicability, not general applicability. The proposed action approves a delisting petition under RCRA for the petitioned waste at a particular facility.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This proposed action is not an Executive Order 13771 regulatory action because actions such as approval of delisting petitions under RCRA are exempted under Executive Order 12866.

C. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it only applies to a particular facility.

D. Regulatory Flexibility Act

Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

E. Unfunded Mandates Reform Act

This proposed action does not contain any unfunded mandate as described in the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538) and does not significantly or uniquely affect small governments. The action imposes no new enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This proposed action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed action does not have tribal implications as specified in Executive Order 13175. This proposed action applies only to a particular facility on non-tribal land. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This proposed action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This proposed action's health and risk assessments using the Agency's Delisting Risk Assessment Software (DRAS), which considers health and safety risks to children, are described in section III.E above. The technical support document and the user's guide for DRAS are included in the docket.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This proposed action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act

This proposed action does not involve technical standards as described by the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this proposed action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples. The EPA has determined that this proposed action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The Agency's risk assessment, as described in section III.E above, did not identify risks from management of this material in an authorized, solid waste landfill (*e.g.,* RCRA Subtitle D landfill, commercial/industrial solid waste landfill, etc.) or the on-site surface impoundment. Therefore, the EPA believes that any populations in proximity of the landfills used by this facility or the Corpus Christi facility should not be adversely affected by common waste management practices for this delisted waste.

L. Congressional Review Act

This proposed action is exempt from the Congressional Review Act (5 U.S.C. 801 *et seq.*) because it is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

Dated: January 13, 2021.

Ronald D. Crossland,

Director, Land, Chemicals and Redevelopment Division, Region 6.

For the reasons set out in the preamble, the EPA proposes to amend 40 CFR part 261 as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

■ 2. Amend Appendix IX to Part 261 by revising the entry for ''American Chrome and Chemical—Corpus Christi,

TX'' to Table 2—Wastes Excluded From Specific Sources to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

* * * * *

TABLE 2—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
American Chrome and Chemical (ACC).	Corpus Christi, Texas	Slurry (the EPA Hazardous Waste No. K006) generated at a maximum generation of 1,450 cubic yards on a dry weight basis per calendar year after (effective date of final rule) and disposed in an on-site surface impoundment. ACC must implement a verification program that meets the following Paragraphs: (1) Delisting Levels: All leachable constituent concentrations must not exceed the following levels. The petitioner must use the method specified in 40 CFR 261.24 to measure constituents in the waste leachate (mg/L). Slurry leachate: Arsenic-0.0377; Barium-100.0; Chromium-5.0; Thallium-0.355; Zinc-1130.0. Chromium may not exceed 400,000 mg/kg. (2) Waste Holding and Handling: (A) If the delisted material causes violations of the Discharge permit, ACC must discontinue disposing of the chromic oxide solids in the impoundment and dispose of it in accordance with the delisting exclusion issued September 21, 2004, until they have completed verification testing described in Paragraph (3), as appropriate, and valid analyses show that paragraph (1) is satisfied. (B) Levels of constituents measured in the samples of the slurry that do not exceed the levels set forth in Paragraph (1) are non-hazardous. ACC can manage and dispose the non-hazardous slurry according to all applicable solid waste regulations. (C) If constituent levels in a sample exceed any of the delisting levels set in Paragraph (1), ACC must retreat the batches of waste used to generate the representative sample until it meets the levels. ACC must repeat the analyses of the treated waste. (D) If the facility does not treat the waste or retreat it until it meets the delisting levels in Paragraph (1), ACC must manage and dispose the waste generated under Subtitle C of RCRA. (E) ACC must maintain a record of the actual volume of the slurry to be disposed in the on-site impoundment according to the requirements in Paragraph (5). (3) Verification Testing Requirements: ACC must perform sample collection and analyses, including quality control procedures, according to appropriate methods such as those found in SW–846 or other reliable sources (with the exception of analyses requiring the use of SW–846 methods incorporated by reference in 40 CFR 260.11, which must be used without substitution). (A) During the first thirty days of sending the slurry to the surface impoundment, ACC will collect slurry samples from the influent to the surface impoundment to determine compliance with the delisting levels in Paragraph (1). (B) Thirty days after disposal in the on-site surface impoundment begins, ACC will take samples of the wastewater from Outfall 101 as prescribed by the discharge permit issued by the Texas Commission on Environmental Quality (TCEQ) through a Texas Pollution Discharge Elimination System (TPDES) Permit No. 003490 (EPA NPDES Permit No. TX0004685). Wastewater samples will be analyzed for the constituents in the TPDES Permit 003490 and in Paragraph (1). Discharge from Outfall 101 is intermittent. At a minimum, an annual sampling event for the constituents listed in Paragraph (1), will be conducted at Outfall 101. (C) ACC may decrease its sampling frequency for this exclusion to quarterly sampling reporting on the delisting exclusion after compliance with the delisting levels in Paragraph (1) is demonstrated with analytical testing for thirty days. This does not supercede the discharge permit requirements, it gives only requirements for the submission of delisted waste related data. (D) If two consecutive quarterly delisting reports show no exceedances of the delisting levels in Paragraph (1), ACC may request to move to annual sampling for the purposes of the delisting. The annual sampling report shall include the volume of chromic oxide solids disposed of in the surface impoundment as well as an annual testing data for Outfall 101. (E) ACC should monitor and report increasing trends of constituents which will affect the overall compliance with the discharge permit. ACC shall analyze the verification samples according to the constituent list specified in Paragraph (1) and submit the analytical results to EPA within 10 days of receiving the analytical results. If the EPA determines that the data collected under this Paragraph do not support the data provided for the petition, the exclusion will not cover the generated wastes. The EPA will notify ACC the decision in writing within two weeks of receiving this information. (4) Changes in Operating Conditions: If ACC significantly changes the process described in its petition or starts any processes that may or could affect the composition or type of waste generated as established under Paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), they must notify the EPA in writing; they may no longer handle the wastes generated from the new process as nonhazardous until the test results of the wastes meet the delisting levels set in Paragraph (1) and they have received written approval to do so from the EPA.

TABLE 2—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(5) Data Submittals: ACC must submit the information described below. If ACC fails to submit the required data within the specified time or maintain the required records on-site for the specified time, the EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in Paragraph 6. ACC must: A. Submit the data obtained through Paragraph 3 to the Chief, RCRA Permits & Solid Waste Section, Mail Code, (6LCR–RP) US EPA Region 6,1201 Elm Street, Suite 500, Dallas, TX 75270 within the time specified. Data may be submitted via email to the technical contact for the delisting program. B. Compile records of operating conditions and analytical data from Paragraph (3), summarized, and maintained on-site for a minimum of five years. C. Furnish these records and data when the EPA or the State of Texas request them for inspection. D. Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: ''Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. If any of this information is determined by the EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.'' (6) Reopener: (A) If, anytime after disposal of the delisted waste, ACC possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Division Director in granting the petition, then the facility must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data. (B) If the verification testing of the waste does not meet the delisting requirements in Paragraph 1, ACC must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data. (C) If ACC fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, the Division Director will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (D) If the Division Director determines that the reported information does require Agency action, the Division Director will notify the facility in writing of the actions the Division Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Agency action is not necessary. The facility shall have 10 days from the date of the Division Director's notice to present such information. (E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Division Director will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Division Director's determination shall become effective immediately, unless the Division Director provides otherwise. (7) Notification Requirements: ACC must do the following before transporting the delisted waste: Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision. (A) Provide a one-time written notification to any State Regulatory Agency to which or through which they will transport the delisted waste described above for disposal, 60 days before beginning such activities. If ACC transports the excluded waste to or manages the waste in any state with delisting authorization, ACC must obtain delisting authorization from that state before it can manage the waste as nonhazardous in the state. (B) Update the one-time written notification if they ship the delisted waste to a different disposal facility.

TABLE 2—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(C) Failure to provide the notification will result in a violation of the delisting variance and a possible revocation of the exclusion.
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[FR Doc. 2021–02939 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 700

[EPA–HQ–OPPT–2020–0493; FRL–10020–69]

RIN 2070–AK64

Fees for the Administration of the Toxic Substances Control Act (TSCA); Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: In the **Federal Register** of January 11, 2021, the Environmental Protection Agency (EPA) proposed updates and adjustments to the 2018 fees rule established under the Toxic Substances Control Act (TSCA). This document extends the comment period for 30 days from February 25, 2021 to March 27, 2021.

DATES: The comment period for the proposed rule published at 86 FR 1890 on January 11, 2021, is extended. Comments, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0493, must be received on or before March 27, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0493, through the *Federal eRulemaking Portal* at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Please note that due to the public health emergency the EPA Docket Center (EPA/DC) and Reading Room was closed to public visitors on March 31, 2020. Our EPA/DC staff will continue to provide customer service via email, phone, and webform. For further information on EPA/DC services, docket contact information and the current status of the EPA/DC and Reading Room, please visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Marc Edmonds, Existing Chemicals Risk Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0758; email address: *edmonds.marc@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** document of January 11, 2021 (86 FR 1890) (FR–10018–40), for 30 days, from February 25, 2021 to March 27, 2021. In that document, EPA proposed updates and adjustments to the 2018 fees rule established under the Toxic Substances Control Act (TSCA). More information on EPA's proposal can be found in the **Federal Register** document of January 11, 2021 (86 FR 1890) (FR–10018–40).

An extension of the comment period was requested by stakeholders to allow interested parties additional time to thoroughly review and analyze how the proposed fees will impact parties potentially subject to the proposed updated TSCA fees and fee categories for fiscal years 2022, 2023 and 2024 discussed in the proposed rule. EPA agrees that an extension of the comment period is warranted.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES**. If you have questions, consult the technical persons listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects 40 CFR Part 700

Chemicals, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements, User fees.

Dated: February 16, 2021.

Richard Keigwin,

Acting Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–03554 Filed 2–22–21; 8:45 am]

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Notices

Federal Register

Vol. 86, No. 34

Tuesday, February 23, 2021

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

National Agricultural Statistics Service

Notice of Intent To Request To Conduct a New Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to seek approval to conduct a new information collection to gather data related to the production of hemp.

DATES: Comments on this notice must be received by April 26, 2021 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–NEW, by any of the following methods:

- *Email: omboffi cer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *E-fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *omboffi cer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Hemp Acreage and Production Survey.

OMB Control Number: 0535–NEW.

Type of Request: Intent to seek approval to create a new information collection for a period of three years.

Abstract: The 2018 Farm Bill requires USDA to promulgate regulations and guidelines to establish and administer a program for the production of hemp in the United States.

As defined in the 2018 Farm Bill, the term ''hemp'' means the plant species Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Delta-9 tetrahydrocannabinol, or THC, is the primary intoxicating component of cannabis. Cannabis with a THC level exceeding 0.3 percent is considered marijuana, which remains classified as a schedule I controlled substance regulated by the Drug Enforcement Administration (DEA) under the Controlled Substances Act (CSA). Under the Agricultural Act of 2014 (2014 Farm Bill), Public Law 113–79, State departments of agriculture and institutions of higher education were permitted to produce hemp as part of a pilot program for research purposes. The authority for hemp production provided in the 2014 Farm Bill was extended by the 2018 Farm Bill, which was signed into law on December 20, 2018.

Hemp is a commodity that can be used for numerous industrial and horticultural purposes including fabric, paper, construction materials, food products, cosmetics, production of cannabinoids (such as cannabidiol or CBD), and other products.

In determining the type of data that would need to be collected and the frequency of the data collections, NASS management attended a joint meeting with representatives from the USDA's Economic Research Service (ERS), Farm Service Agency (FSA), Risk Management Agency (RMA), Agricultural Marketing Service (AMS), and the Office of the Secretary.

Authority: The data will be collected under the authority of the Domestic Hemp Production Program, which is mandated by the Agriculture Improvement Act of 2018 (2018 Farm Bill). In addition the data will be collected under the authority of Title 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501, *et seq.*), and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response. NASS plans to mail out publicity materials with the questionnaires to inform producers of the importance of this survey. NASS will also use multiple mailings and internet data collection tools, followed up with phone and limited personal enumeration of non-respondents to increase response rates and to minimize data collection costs. NASS is currently building a listing of potential hemp producers. From initial findings the target population is not expected to exceed 20,000.

Respondents: Farmers and Ranchers.

Estimated Number of Respondents: 20,000.

Estimated Total Annual Burden on Respondents: 6,700 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through

the use of appropriate automated, electronic, mechanical, technological, or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, February 16, 2021.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2021–03608 Filed 2–22–21; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Meeting

The Regulations and Procedures Technical Advisory Committee will meet March 9, 2021, at 10:00 a.m., Eastern Standard Time, via remote teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

Public Session

1. Opening remarks by the Chairman
2. Opening remarks by the Bureau of Industry and Security
3. Presentation of papers or comments by the Public
4. Regulations Update
5. Working Group Reports
6. Automated Export System Update

Closed Session

7. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than March 2, 2021.

To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2021–03684 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–874]

Certain Hot-Rolled Steel Flat Products From Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Nippon Steel Corporation (NSC) and Tokyo Steel Manufacturing Co., Ltd. (Tokyo Steel), producers and exporters of hot-rolled steel flat products (hot-rolled steel) from Japan, sold subject merchandise in the United States at prices below normal value during the period of review (POR) October 1, 2018 through September 30, 2019. In addition, Commerce preliminarily determines that Honda Trading Canada, Inc. (Honda), Panasonic Corporation (Panasonic), and Mitsui & CO., Ltd. (Mitsui) had no shipments during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Jack Zhao, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2371 or (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce is conducting an administrative review of the antidumping duty order on hot-rolled steel from Japan in accordance with section 751(a)(1)(B) of Tariff Act of 1930, as amended (the Act).[1] Commerce initiated this administrative review on December 11, 2019 covering 26 producers and/or exporters.[2] We selected NSC and Tokyo Steel as mandatory respondents.[3] On April 24, 2020, Commerce exercised its discretion to uniformly toll all statutory deadlines for antidumping and countervailing duty administrative reviews by 50 days.[4] On July 21, 2020, Commerce further tolled all statutory deadlines for antidumping and countervailing duty administrative reviews by another 60 days.[5] On October 13, 2020, we extended the deadline for the preliminary results of this review by an additional 120 days, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), resulting in a deadline of February 17, 2021 for these preliminary results.[6] For a detailed description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[7]

Scope of the Order

The merchandise covered by the *Order* is hot-rolled steel from Japan. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.[8]

Methodology

Commerce is conducting this administrative review in accordance with section 751(a) of the Act. Constructed export price and export price were calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A

[1] *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 67712 (December 11, 2019) (*Initiation Notice*).

[3] *See* Memorandum ''Respondent Selection for the 2018–2019 Antidumping Duty Administrative Review of Certain Hot-Rolled Steel Flat Products from Japan,'' dated May 1, 2020.

[4] *See* Memorandum to the Record from Jeffrey I. Kessler, Assistant Secretary, Enforcement and Compliance, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

[5] *See* Memorandum to the Record from Jeffrey I. Kessler, Assistant Secretary, Enforcement and Compliance, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[6] *See* Memorandum, ''Certain Hot-Rolled Steel Flat Products from Japan: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review—2018–2019,'' dated October 13, 2020.

[7] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Certain Hot-Rolled Steel Flat Products from Japan; 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[8] *Id.*

list of topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access to ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Determination of No Shipments

Among the companies under review, Honda, Panasonic and Mitsui each properly filed a statement reporting that it had made no shipments of subject merchandise to the United States during the POR. Commerce issued an instruction to the U.S. Customs and Border Protection (CBP) asking for any entry activity regarding Honda, Panasonic and Mitsui, and is awaiting CBP's response.[9] Based on the certifications submitted by Honda, Panasonic and Mitsui, and our analysis of CBP information currently on the record, we preliminarily determine that Honda, Panasonic and Mitsui had no shipments during the POR.[10] Consistent with its practice, Commerce finds that it is not appropriate to preliminarily rescind the review with respect to Honda, Panasonic and Mitsui, but rather to complete the review and issue appropriate instructions to CBP based on the final results of this review.

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

In this review, we have preliminarily calculated weighted-average dumping margins for NSC and Tokyo Steel that are not zero, *de minimis,* or determined entirely on the basis of facts available. Accordingly, Commerce preliminarily has assigned to companies not individually examined a margin of 10.95 percent, which is the weighted average (using the publicly-ranged U.S. value) of NSC's and Tokyo Steel's calculated weighted-average dumping margins.[11]

Preliminary Results

We preliminarily determine the following weighted-average dumping margins for the period October 1, 2018 through September 30, 2019:

Exporter/producer	Weighted-average dumping margin (percent)
Nippon Steel Corporation/Nippon Steel Nisshin Co., Ltd./Nippon Steel Trading Corporation[12]	11.70
Tokyo Steel Manufacturing Co., Ltd	6.80
Review-Specific Average Rate Applicable to the Following Companies[13]	
Hanwa Co., Ltd	10.95
Higuchi Manufacturing America, LLC	10.95
Higuchi Seisakusho Co., Ltd	10.95
Hitachi Metals, Ltd	10.95
JFE Steel Corporation/JFE Shoji Trade Corporation[14]	10.95
JFE Shoji Trade America	10.95
Kanematsu Corporation	10.95
Kobe Steel, Ltd	10.95
Metal One Corporation	10.95
Miyama Industry Co., Ltd	10.95
Nakagawa Special Steel Inc	10.95
Nippon Steel & Sumikin Logistics Co., Ltd	10.95
Okaya & Co. Ltd	10.95
Saint-Gobain K.K	10.95
Shinsho Corporation	10.95
Sumitomo Corporation	10.95
Suzukaku Corporation	10.95
Toyota Tsusho Corporation Nagoya	10.95

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries. For any individually examined respondent whose weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review and the respondent reported reliable entered values, we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of dumping calculated for the examined sales made during the POR to each importer and the total entered value of those same sales, in accordance with 19 CFR 351.212(b)(1). If the respondent has not reported reliable entered values, we will calculate a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total sales quantity associated with those transactions. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2). If a respondent's weighted-average

[9] *See* No Shipment Inquiry to CBP, dated February 3 and 8, 2021.

[10] *See* Honda's Letter, ''Administrative Review of Certain Hot-Rolled Steel Flat Products from Japan: Honda Trading Canada, Inc.'s No Shipment Certification,'' dated December 20, 2018; *see also* Panasonic's Letter, ''Administrative Review of Certain Hot-Rolled Steel Flat Products from Japan: Panasonic Corporation No Shipment Certification,'' dated January 8, 2020; and Mitsui's Letter, ''Antidumping Administrative Review of Certain Hot-Rolled Steel Flat Products from Japan: Mitsui No Shipment Certification,'' dated January 9, 2020.

[11] *See* Memorandum, ''Review-Specific Average Rate for Non-Examined Companies,'' dated concurrently with this memorandum.

[12] Commerce found in a changed circumstances review that NSC, Nippon Steel Nisshin Co., Ltd. (Nippon Nisshin), and Nippon Steel Trading Corporation (NSTC) are affiliated companies that should be treated as a single entity and as the successor-in-interest to Nippon Steel & Sumitomo Metal Corporation (NSSMC), Nisshin Steel Co., Ltd. (Nisshin Steel), and Nippon Steel & Sumikin Bussan Corporation (NSSBC), respectively. *See Certain Hot-Rolled Steel Flat Products from Japan: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 84 FR 46713 (September 5, 2019).

[13] This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, de minimis, or based entirely on facts available. *See* section 735(c)(5)(A) of the Act. *See* Memorandum ''Review-Specific Average Rate for Non-Examined Companies,'' dated concurrently with this memorandum.

[14] We collapsed JFE Shoji Trade Corporation with JFE Steel Corporation in the underlying investigation. *See Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination,* 81 FR 15222 (March 22, 2016), and accompanying Preliminary Decision Memorandum at 8–9.

dumping margin is zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed.'' [15]

For entries of subject merchandise during the POR produced by NSC and Tokyo Steel for which the producer did not know its merchandise was destined for the United States, or for any respondent for which we have a final determination of no shipments, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company (or companies) involved in the transaction.[16]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the underlying investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 5.58 percent, the all-others rate established in the less-than-fair-value investigation.[17] These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed for these preliminary results of review to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, the content of which is limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.[18] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[19] Case and rebuttal briefs should be filed using ACCESS [20] and must be served on interested parties.[21] Executive summaries should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via Commerce's electronic records system, ACCESS. An electronically filed request must be received successfully in its entirety by 5:00 p.m. Eastern Time within 30 days of the date of publication of this notice.[22] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined.[23] Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any case or rebuttal briefs, no later than 120 days after the date of publication of this notice, unless extended.[24]

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 17, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Preliminary Determination of No Shipments
V. Use of Facts Available and Adverse Facts Available
VI. Rates for Non-Examined Companies
VII. Discussion of the Methodology
VIII. Currency Conversion
IX. Recommendation

[FR Doc. 2021–03648 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–878, A–580–881, C–580–879, C–580–882]

Certain Cold-Rolled Steel Flat Products and Certain Corrosion-Resistant Steel Products From the Republic of Korea: Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) continues to find that that KG Dongbu Steel Co., Ltd. (KG Dongbu Steel) is the successor-in-interest to

[15] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[16] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[17] *See Order.*

[18] *See* 19 CFR 351.309(d).

[19] *See* 19 CFR 351.309(c)(2) and (d)(2).

[20] *See generally* 19 CFR 351.303.

[21] *See* 19 CFR 351.303(f).

[22] *See* 19 CFR 351.310(c).

[23] *See* 19 CFR 351.310(d).

[24] *See* section 751(a)(3)(A) of the Act; and 19 CFR 351.213(h).

Dongbu Steel Co., Ltd. (Dongbu Steel) and Dongbu Incheon Steel Co., Ltd. (Dongbu Incheon) for purposes of determining antidumping duty (AD) cash deposits and liabilities pursuant to the AD orders on certain cold-rolled steel flat products (cold-rolled steel) and certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea). Additionally, Commerce continues to find KG Dongbu Steel is not the successor-in-interest to Dongbu Steel and Dongbu Incheon for purposes of countervailing duty (CVD) cash deposits and liabilities pursuant to the CVD orders on cold-rolled steel and CORE, because there was a significant change in ownership and operations that could have affected the nature and extent of the countervailable subsidies attributable to KG Dongbu Steel.

DATES: Applicable February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Joshua A. DeMoss, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3362.

SUPPLEMENTARY INFORMATION:

Background

On January 5, 2021, Commerce published the *Preliminary Results* of the changed circumstances reviews (CCRs) of the AD and CVD orders on cold-rolled steel and CORE from Korea.[1] In the *Preliminary Results,* interested parties were provided an opportunity to comment and request a public hearing regarding our preliminary findings. We received no comments from interested parties, nor was a public hearing requested.

Scope of the Orders

The products covered by these CCRs are cold-rolled steel and CORE from Korea. For full descriptions of the scope of the orders, *see* the *Preliminary Results* and accompanying Preliminary Decision Memorandum.

Final Results of the Changed Circumstances Reviews

For the reasons stated in the *Preliminary Results,* and because we received no comments from interested parties, Commerce continues to find that KG Dongbu Steel is the successor-in-interest to Dongbu Steel and Dongbu Incheon for AD purposes. As a result of this determination, we find it appropriate to apply to KG Dongbu Steel AD cash deposits requirements and liabilities at the rates currently in effect for Dongbu Steel/Dongbu Incheon. For CVD purposes, we continue to find that changes in ownership and management were significant and, thus, that it is not appropriate to apply the CVD cash deposit requirements and liabilities currently in effect for Dongbu Steel/Dongbu Incheon to KG Dongbu Steel.

Commerce will instruct U.S. Customs and Border Protection to suspend liquidation of all shipments of subject merchandise produced or exported by KG Dongbu Steel and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register** at the current antidumping duty cash-deposit rate on cold-rolled steel and CORE in effect for Dongbu Steel/Dongbu Incheon. This cash deposit requirement shall remain in effect until further notice.

Notification to Interested Parties

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216(b), 351.221(b) and 351.221(c)(3).

Dated: February 17, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–03619 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Certain Cold-Rolled Steel Flat Products and Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping Duty and Countervailing Duty Changed Circumstances Reviews,* 86 FR 287 (January 5, 2021) (*Preliminary Results*).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–602–809]

Certain Hot-Rolled Steel Flat Products From Australia: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review, in Part; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that the producer/exporter subject to this review made sales of subject merchandise at less than normal value during the period of review (POR), October 1, 2018, through September 30, 2019. We invite interested parties to comment on these preliminary results.

DATES: Applicable February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Allison Hollander, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2805.

SUPPLEMENTARY INFORMATION:

Background

On January 17, 2020, Commerce initiated this administrative review of the antidumping duty order on certain hot-rolled steel flat products (hot-rolled steel) from Australia in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).[1] This review covers one producer/exporter of subject merchandise, the collapsed entity, BlueScope Steel (AIS) Pty Ltd., BlueScope Steel Ltd., and BlueScope Steel Distribution Pty Ltd. (collectively, BlueScope). On April 24, 2020, Commerce exercised its discretion to toll all deadlines for administrative reviews by 50 days, resulting in a revised deadline for these preliminary results.[2] On July 21, 2020, Commerce again tolled all deadlines in administrative reviews by an additional 60 days.[3] Additionally, Commerce exercised its discretion to extend the deadline for the preliminary results until February 17, 2021.[4]

Scope of the Order

The products covered by this *Order*[5] are certain hot-rolled, flat-rolled steel products. For a full description of the scope, *see* the Preliminary Decision Memorandum.[6]

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. Constructed export price is

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 3014 (January 17, 2020) (*Initiation Notice*).

[2] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[4] *See* Memorandum, ''Certain Hot-Rolled Steel Flat Products from Australia: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2018–2019,'' dated September 21, 2020.

[5] *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016) (*Order*).

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Hot Rolled Steel Flat Products from Australia: 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum is available at *http://enforcement.trade.gov/frn/.* A list of the topics included in the Preliminary Decision Memorandum is included as an appendix to this notice.

Intent To Rescind Review in Part

In the *Initiation Notice,* Commerce inadvertently included as subject to the review a U.S. company, *i.e.,* AJU Steel USA Inc., for which a review should not have been initiated. As such, Commerce intends to rescind the review with respect to AJU Steel USA Inc. After the completion of the final results of review, Commerce intends to instruct CBP to assess antidumping duties on any suspended entries of hot-rolled steel from AJU Steel USA Inc. at the rate equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse for consumption.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margin exists for the period October 1, 2018, through September 30, 2019:

Exporter/producer	Weighted-average dumping margin (percent)
BlueScope Steel (AIS) Pty Ltd, BlueScope Steel Ltd., and BlueScope Steel Distribution Pty Ltd	7.96

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results.[7] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[8] Commerce modified certain of its requirements for serving documents containing business proprietary information until further notice.[9] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[10] Case and rebuttal briefs should be filed using ACCESS [11] and must be served on interested parties.[12] Executive summaries should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon completion of the final results, Commerce shall determine, and Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If BlueScope's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[13] If BlueScope's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis,* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[14] The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[15]

For entries of subject merchandise during the POR produced by BlueScope for which it did not know that the merchandise was destined to the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[16]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the notice of final results of administrative review for all shipments of hot-rolled steel from Australia entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for BlueScope will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for merchandise exported by a company not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).'').

[9] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[10] *See* 19 CFR 351.309(c)(2) and (d)(2).

[11] *See generally* 19 CFR 351.303.

[12] *See* 19 CFR 351.303(f).

[13] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[14] *Id.* at 8102–03; *see also* 19 CFR 351.106(c)(2).

[15] *See* section 751(a)(2)(C) of the Act.

[16] For a full discussion of this practice, see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

covered in this review or the original investigation but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 29.58 percent, the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221.

Dated: February 16, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2021–03618 Filed 2–22–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–919]

Electrolytic Manganese Dioxide From the People's Republic of China: Preliminary Rescission of the Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is preliminarily rescinding this administrative review. The period of review (POR) is October 1, 2018, through September 30, 2019. Interested parties are invited to comment on this preliminary rescission.

DATES: Applicable February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Krisha Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4037.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 2019, Commerce published a notice of initiation of the 2018—2019 administrative review of the antidumping duty (AD) order on electrolytic manganese dioxide (EMD) from the People's Republic of China (China) with respect to one company, Duracell (China) Limited (DCL).[1] Commerce subsequently issued an AD questionnaire, and supplemental questionnaires, to DCL and received timely responses thereto. For additional background, *see* the Preliminary Decision Memorandum.[2]

Scope of the Order

The merchandise covered by the order includes all manganese dioxide (MnO2) that has been manufactured in an electrolysis process, whether in powder, chip, or plate form. Excluded from the scope are natural manganese dioxide (NMD) and chemical manganese dioxide (CMD). The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2820.10.00.00. While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our decision, *see* the Preliminary Decision Memorandum. A list of the sections in the Preliminary Decision Memorandum is attached in the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Rescission of the Antidumping Duty Administrative Review

As discussed in the Preliminary Decision Memorandum, Commerce preliminarily finds that DCL, and its U.S. affiliates, did not sell subject merchandise to unaffiliated U.S. customers during the POR and could not trace the POR entry of EMD, which was used to manufacture batteries in the United States, to particular battery sales to unaffiliated U.S. customers.[3] Therefore, we are preliminarily rescinding this review, in accordance with 19 CFR 351.213(d)(3).

Public Comment

Interested parties are invited to comment on the preliminary results of this review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice in the **Federal Register**. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the deadline for filing case briefs.[4] Parties who submit case or rebuttal briefs are requested to submit with each brief: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[5] Executive summaries should be limited to five pages total, including footnotes.[6] All submissions, with limited exceptions, must be filed electronically using ACCESS.[7] Electronically filed documents must be received successfully in their entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time (ET) on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 67712 (December 11, 2019).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2018–2019 Antidumping Duty Administrative Review of Electrolytic Manganese Dioxide from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[3] *See* Preliminary Decision Memorandum.

[4] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[5] *See* 19 CFR 351.309(c)(2) and (d)(2).

[6] *Id.*

[7] *See* 19 CFR 351.303.

containing business proprietary information, until further notice.[8]

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the date of publication of this notice in the **Federal Register**. If a hearing is requested, Commerce will notify interested parties of the hearing date and time. Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS within 30 days after the date of publication of this notice in the **Federal Register**. Hearing requests should contain: (1) The requestor company's name, address, and telephone number; (2) the number of hearing participants from the company; and (3) a list of the issues the company will discuss in the hearing. Issues raised in the hearing will be limited to issues covered in the case and rebuttal briefs.

Unless otherwise extended, Commerce intends to issue the final results of this review, which will include the results of its analysis of issues raised in any case and rebuttal briefs, no later than 120 days after the date these preliminary results of review are published in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

If Commerce proceeds to a final rescission of this administrative review, any suspended entries of subject merchandise from DCL will be liquidated at the rate at which they entered, which was the China-wide entity rate (*i.e.,* 149.92 percent). If Commerce does not proceed to a final rescission of this administrative review, pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will calculate importer-specific (or customer-specific) assessment rates based on the final results of this review. However, pursuant to Commerce's practice in non-market economy cases, if Commerce does not proceed to a final rescission of this administrative review, for POR entries of EMD not related to sales reported in DCL's U.S. sales database, Commerce will instruct U.S. Customs and Border Protection (CBP) to liquidate such entries at the China-wide entity rate.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

If Commerce proceeds to a final rescission of this administrative review, DCL's cash deposit rate will continue to be the China-wide entity rate of 149.92 percent. If Commerce does not proceed to a final rescission of this administrative review, but calculates a dumping margin for DCL, Commerce will instruct CBP to collect a cash deposit upon publication of the final results of review in the **Federal Register**, equal to the dumping margin calculated for DCL.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 16, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Sections in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Preliminary Rescission of the Review
V. Recommendation

[FR Doc. 2021–03620 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–DS–P

[8] *See Temporary Rule.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–899, A–821–829]

Granular Polytetrafluoroethylene Resin From India and the Russian Federation: Initiation of Less-Than-Fair-Value Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 16, 2021.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin at (202) 482–6478 (India) or Jaron Moore at (202) 482–3640 (the Russian Federation (Russia)); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On January 27, 2021, the Department of Commerce (Commerce) received antidumping duty (AD) petitions concerning imports of granular polytetrafluoroethylene (PTFE) resin from India and Russia, filed in proper form on behalf of Daikin America, Inc. (the petitioner), a domestic producer of granular PTFE resin.[1] The Petitions were accompanied by countervailing duty (CVD) petitions concerning imports of granular PTFE resin from India and Russia.[2]

On January 29 and February 1, 2021, Commerce requested supplemental information pertaining to certain aspects of the Petitions.[3] The petitioner filed responses to these requests on February 2 and 3, 2021.[4]

[1] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Granular Polytetrafluoroethylene Resin from India and Russia,'' dated January 27, 2021 (the Petitions).

[2] *Id.*

[3] *See* Commerce's Letters, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Granular Polytetrafluoroethylene (PTFE) Resin from India and Russia: Supplemental Questions,'' dated January 29, 2021; ''Petition for the Imposition of Antidumping Duties on Imports of Granular Polytetrafluoroethylene (PTFE) Resin from India: Supplemental Questions,'' dated February 1, 2021; and ''Petition for the Imposition of Antidumping Duties on Imports of Granular Polytetrafluoroethylene (PTFE) Resin from Russia: Supplemental Questions,'' dated February 1, 2021.

[4] *See* Petitioner's Letters, ''Granular Polytetrafluoroethylene Resin from India and Russia: Response to General Issues Questionnaire,'' dated February 2, 2021 (General Issues Supplement); ''Granular Polytetrafluoroethylene Resin from India: Response to Supplemental Questionnaire,'' dated February 3, 2021 (India AD Supplement); and ''Granular

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of granular PTFE resin from India and Russia are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products are materially injuring, or threatening material injury to, the granular PTFE resin industry in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested AD investigations.[5]

Periods of Investigation

Because the Petitions were filed on January 27, 2021, the period of investigation (POI) for the India and Russia AD investigations is January 1, 2020, through December 31, 2020, pursuant to 19 CFR 351.204(b)(1).

Scope of the Investigations

The product covered by these investigations is granular PTFE resin from India and Russia. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on the Scope of the Investigations

On February 4 and 9, 2021, Commerce requested information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[6] On February 9, 2021, the petitioner revised the scope.[7] The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects this revision.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period of time for interested parties to raise issues regarding product coverage (*i.e.,* scope).[8] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[9] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on March 8, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 18, 2021, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that parties consider relevant to the scope of the investigations be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[10] An electronically filed document must be received successfully in its entirety by the time and date it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[11]

Comments on Product Characteristics

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of granular PTFE resin to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe granular PTFE resin, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on March 8, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments must be filed by 5:00 p.m. ET on March 18, 2021. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of each of the AD investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A)

Polytetrafluoroethylene Resin from Russia: Submission of Answers to Supplemental Questions,'' dated February 3, 2021 (Russia AD Supplement).

[5] *See infra,* section on ''Determination of Industry Support for the Petitions.''

[6] *See* Memoranda, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Granular Polytetrafluoroethylene Resin from India and Russia: Phone Call with Counsel to the Petitioner,'' dated February 4, 2021; and ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Granular Polytetrafluoroethylene Resin from India and Russia: Phone Call with Counsel to the Petitioner,'' dated February 9, 2021 (Scope Call Memorandum).

[7] *See* Scope Call Memorandum at 1–2.

[8] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[10] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.*

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[12] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[13]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[14] Based on our analysis of the information submitted on the record, we have determined that granular PTFE resin, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[15]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioner provided its own 2020 production of the domestic like product.[16] Additionally, the petitioner provided a letter of support from The Chemours Company FC LLC (Chemours), stating its support for the Petitions and providing its own production of the domestic like product in 2020.[17] The petitioner identifies itself and Chemours as the companies constituting the U.S. granular PTFE resin industry and states that there are no other known producers of granular PTFE resin in the United States; therefore, the Petitions are supported by 100 percent of the U.S. industry.[18] We relied on the data provided by the petitioner for purposes of measuring industry support.[19]

Our review of the data provided in the Petitions, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.[20] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[21] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[22] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[23] Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.[24]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[25]

The petitioner contends that the industry's injured condition is illustrated by significant and increasing volume and market share of subject imports; lost sales and revenues; underselling and price depression and/or suppression; and declines in production, U.S. commercial shipments, and financial performance.[26] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[27]

[12] *See* section 771(10) of the Act.

[13] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

[14] *See* Volume I of the Petitions at I–11 through I–19.

[15] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Antidumping Duty Investigation Initiation Checklists: Granular Polytetrafluoroethylene Resin from India and Russia (Country-Specific AD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Granular Polytetrafluoroethylene Resin from India and Russia (Attachment II). These checklists are dated concurrently with this notice and on file electronically via ACCESS.

[16] *See* Volume I of the Petitions at I–2 through I–3 and Exhibit I–1; *see also* General issues Supplement at 2 and Exhibit Supp I–1.

[17] *See* Volume I of the Petitions at I–2 through I–3 and Exhibit I–4.

[18] *Id.* at I–2 through I–3 and Exhibit I–1.

[19] *Id.* at I–2 through I–3 and Exhibits I–1 and I–4; *see also* General Issues Supplement at 2 and Exhibit Supp I–1.

[20] *See* Attachment II of the Country-Specific AD Initiation Checklists.

[21] *Id.; see also* section 732(c)(4)(D) of the Act.

[22] *See* Attachment II of the Country-Specific AD Initiation Checklists.

[23] *Id.*

[24] *Id.*

[25] *See* Volume I of the Petitions at I–23 and Exhibit I–27.

[26] *See* Volume I of the Petitions at I–26 through I–38 and Exhibits I–27, I–29 through I–35; *see also* General Issues Supplement at Exhibit Supp. I–1.

[27] *See* Country-Specific AD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of granular PTFE resin from India and Russia. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the Country-Specific AD Initiation Checklists.

U.S. Price

For India and Russia, the petitioner based export price (EP) on the average unit values (AUVs) of publicly available import data for granular PTFE resin from India and Russia during the POI and made certain adjustments to U.S. price to calculate a net ex-factory U.S. price.[28]

Normal Value [29]

For India and Russia, the petitioner based NV on home market price quotes obtained through market research for granular PTFE resin produced in and sold, or offered for sale, in each country within the applicable time period.[30]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of granular PTFE resin from India and Russia are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for granular PTFE resin for both countries covered by this initiation are as follows: (1) India—37.71 to 391.83 percent; and (2) Russia—67.32 percent.[31]

Initiation of LTFV Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of granular PTFE resin from India and Russia are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

India

In the Petition, the petitioner named eight companies in India as producers/exporters of granular PTFE resin.[32] Following standard practice in AD investigations involving market economy countries, in the event Commerce determines that the number of exporters or producers in any individual case is large such that Commerce cannot individually examine each company based upon its resources, where appropriate, Commerce intends to select mandatory respondents in that case based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the ''Scope of the Investigations,'' in the appendix.

On February 12, 2021, Commerce released CBP data for U.S. imports of granular PTFE resin from India under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of these investigations.[33] Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by ACCESS no later than 5:00 p.m. ET by the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *http://enforcement.trade.gov/apo.*

Russia

In the Petition, the petitioner named only one company as a producer/exporter of granular PTFE resin in Russia, Halopolymer OJSC, and provided independent, third-party information as support.[34] We currently know of no additional producers/exporters of granular PTFE resin from Russia. Accordingly, Commerce intends to examine all known producers/exporters (*i.e.,* Halopolymer OJSC). We invite interested parties to comment on this issue. Such comments may include factual information within the meaning of 19 CFR 351.102(b)(21). Parties wishing to comment must do so within three business days of the publication of this notice in the **Federal Register**. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. ET on the specified deadline. Because we intend to examine all known producers/exporters, if no comments are received or if comments received further support the existence of this sole producer/exporter in Russia, we do not intend to conduct respondent selection and will proceed to issuing the initial antidumping questionnaire to the company identified. However, if comments are received which create a need for a respondent selection process, we intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of India and Russia via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that subject imports are materially injuring or threatening material injury to a U.S. industry.[35] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[36] Otherwise, these AD

Covering Granular Polytetrafluoroethylene Resin from India and Russia (Attachment III).

[28] *See* Country-Specific AD Initiation Checklists.

[29] In accordance with section 773(b)(2) of the Act, for the India and Russia investigations, Commerce will request information necessary to calculate the constructed value (CV) and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product.

[30] *See* Country-Specific AD Initiation Checklists.

[31] *See* Country-Specific AD Initiation Checklists for details of these margin calculations.

[32] *See* Volume I of the Petitions at I–20 and Exhibit I–26.

[33] *See* Memorandum, ''Countervailing Duty and Antidumping Duty Petitions on Granular Polytetrafluoroethylene Resin from India: Release of Customs Data from U.S. Customs and Border Protection,'' dated February 12, 2021.

[34] *See* Volume I of the Petitions at I–20 and Exhibits I–3 and I–26; *see also* General Issues Supplement at 1–2.

[35] *See* section 733(a) of the Act.

[36] *Id.*

investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [37] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[38] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 773(e) of the Act addresses the concept of particular market situation (PMS) for purposes of CV, stating that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act, nor 19 CFR 351.301(c)(2)(v), set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[39] Parties must use the certification formats provided in 19 CFR 351.303(g).[40] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letter of appearance).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 16, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The product covered by these investigations is granular polytetrafluoroethylene (PTFE) resin. Granular PTFE resin is covered by the scope of these investigations whether filled or unfilled, whether or not modified, and whether or not containing co-polymer, additives, pigments, or other materials. Also included is PTFE wet raw polymer. The chemical formula for granular PTFE resin is C_2F_4, and the Chemical Abstracts Service (CAS) Registry number is 9002–84–0.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by filling, modifying, compounding, packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the granular PTFE resin.

The product covered by these investigations does not include dispersion or coagulated dispersion (also known as fine powder) PTFE.

PTFE further processed into micropowder, having particle size typically ranging from 1 to 25 microns, and a melt-flow rate no less than 0.1 gram/10 minutes, is excluded from the scope of these investigations.

Granular PTFE resin is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 3904.61.0010. Subject merchandise may also be classified under HTSUS subheading 3904.69.5000. Although the HTSUS subheadings and CAS Number are provided for convenience and customs purposes, the written description of the scope is dispositive.

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[37] *See* 19 CFR 351.301(b).

[38] *See* 19 CFR 351.301(b)(2).

[39] *See* section 782(b) of the Act.

[40] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–900, C–821–830]

Granular Polytetrafluoroethylene Resin From India and the Russian Federation: Initiation of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable February 16, 2021.

FOR FURTHER INFORMATION CONTACT: Janae Martin at (202) 482–0238 (India) and George Ayache at (202) 482–2623 (the Russian Federation (Russia)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On January 27, 2021, the U.S. Department of Commerce (Commerce) received countervailing duty (CVD) petitions concerning imports of granular polytetrafluoroethylene (PTFE) resin from India and Russia, filed in proper form on behalf of Daikin America, Inc. (the petitioner).[1] The Petitions were accompanied by antidumping duty (AD) petitions concerning imports of granular PTFE resin from India and Russia.[2]

On January 29 and February 1, 2021, Commerce requested supplemental information pertaining to certain aspects of the Petitions.[3] The petitioner filed responses to these requests on February 2 and 3, 2021.[4]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of India (GOI) and the Government of Russia (GOR) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of granular PTFE resin in India and Russia, and that imports of such products are materially injuring, or threatening material injury to, the domestic industry producing granular PTFE resin in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating CVD investigations, the Petitions were accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested CVD investigations.[5]

Periods of Investigation

Because the Petitions were filed on January 27, 2021, the period of investigation (POI) for these CVD investigations is January 1, 2020, through December 31, 2020, pursuant to 19 CFR 351.204(b)(2).

Scope of the Investigations

The product covered by these investigations is granular PTFE resin from India and Russia. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on Scope of the Investigations

On February 4 and 9, 2021, Commerce requested information from the petitioner regarding the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.[6] On February 9, 2021, the petitioner revised the scope.[7] The description of merchandise covered by these investigations, as described in the appendix to this notice, reflects this revision.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.,* scope).[8] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,[9] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on March 8, 2021, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 18, 2021, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.[10] An electronically filed document must be received successfully in its entirety by the time and date it is due. Note that Commerce has temporarily modified

[1] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Granular Polytetrafluoroethylene Resin from India and Russia,'' dated January 27, 2021 (the Petitions).

[2] *Id.*

[3] *See* Commerce's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Granular Polytetrafluoroethylene (PTFE) Resin from India and Russia: Supplemental Questions,'' dated January 29, 2021; and Commerce's Letters, ''Petition for the Imposition of Countervailing Duties on Imports of Granular Polytetrafluoroethylene (PTFE) Resin from India: Supplemental Questions,'' and ''Petition for the Imposition of Countervailing Duties on Imports of Granular Polytetrafluoroethylene (PTFE) Resin from the Russian Federation: Supplemental Questions,'' both dated February 1, 2021.

[4] *See* Petitioner's Letters, ''Granular Polytetrafluoroethylene Resin from India and Russia: Response to General Issues Questionnaire,'' dated February 2, 2021 (General Issues Supplement); and ''Granular Polytetrafluoroethylene Resin from India: Response to Supplemental Questions,'' and ''Granular Polytetrafluoroethylene Resin from Russia: Submission of Answers to Supplemental Questions,'' both dated February 3, 2021.

[5] *See* ''Determination of Industry Support for the Petitions'' section, *infra.*

[6] *See* Memoranda, ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Granular Polytetrafluoroethylene Resin from India and Russia: Phone Call with Counsel to the Petitioner,'' dated February 4, 2021; and ''Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Granular Polytetrafluoroethylene Resin from India and Russia: Phone Call with Counsel to the Petitioner,'' dated February 9, 2021 (Scope Call Memorandum).

[7] *See* Scope Call Memorandum at 1–2.

[8] *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[9] *See* 19 CFR 351.102(b)(21) (defining ''factual information.'').

[10] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

certain of its requirements for serving documents containing business proprietary information until further notice.[11]

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOI and the GOR of the receipt of the Petitions and provided an opportunity for consultations with respect to the Petitions.[12] Commerce held consultations with the GOR on February 11, 2021.[13] With respect to India, Commerce did not hold consultations with the GOI. Instead, the GOI submitted pre-initiation comments on February 12, 2021.[14]

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[15] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[16]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations.[17] Based on our analysis of the information submitted on the record, we have determined that granular PTFE resin, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[18]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in the appendix to this notice. To establish industry support, the petitioner provided its own 2020 production of the domestic like product.[19] Additionally, the petitioner provided a letter of support from The Chemours Company FC LLC (Chemours), stating its support for the Petitions and providing its own production of the domestic like product in 2020.[20] The petitioner identifies itself and Chemours as the companies constituting the U.S. granular PTFE resin industry and states that there are no other known producers of granular PTFE resin in the United States; therefore, the Petitions are supported by 100 percent of the U.S. industry.[21] We relied on the data provided by the petitioner for purposes of measuring industry support.[22]

Our review of the data provided in the Petitions, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.[23] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[24] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[25] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[26] Accordingly, Commerce

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[12] *See* Commerce's Letters, ''Countervailing Duty Petition on Granular Polytetrafluoroethylene (PTFE) Resin from the Russian Federation: Invitation for Consultations,'' dated January 27, 2021; and ''Countervailing Duty Petition on Granular Polytetrafluoroethylene Resin from India: Invitation for Consultations to Discuss the Countervailing Duty Petition,'' dated February 1, 2021.

[13] *See* Memorandum, ''Countervailing Duty Petition on Granular Polytetrafluoroethylene (PTFE) Resin from the Russian Federation (Russia): Consultations with Officials from the Government of Russia,'' dated February 12, 2021.

[14] *See* GOI's Letter, ''Pre-Initiation Consultation Note on the Petition for Initiation of Countervailing Duty Investigation concerning Granular Polytetrafluoroethylene Resin from India (PTFE) (Case No. 533–900),'' dated February 12, 2021.

[15] *See* section 771(10) of the Act.

[16] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F. 2d 240 (Fed. Cir. 1989)).

[17] *See* Volume I of the Petitions at I–11 through I–19.

[18] For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklists: Granular Polytetrafluoroethylene Resin from India and Russia (Country-Specific CVD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Granular Polytetrafluoroethylene Resin from India and Russia (Attachment II). These checklists are dated concurrently with this notice and on file electronically via ACCESS.

[19] *See* Volume I of the Petitions at I–2 through I–3 and Exhibit I–1; *see also* General Issues Supplement at 2 and Exhibit Supp I–1.

[20] *See* Volume I of the Petitions at I–2 through I–3 and Exhibit I–4.

[21] *Id.* at I–2 through I–3 and Exhibits I–1 and 4.

[22] *Id.* at I–2 through I–3 and Exhibits I–1 and I–4; *see also* General Issues Supplement at 2 and Exhibit Supp I–1.

[23] *See* Volume I of the Petitions at I–2 through I–3 and Exhibits I–1 and I–4; *see also* General Issues Supplement at 2 and Exhibit Supp I–1.

[24] *See* Attachment II of the Country-Specific CVD Initiation Checklists; *see also* section 702(c)(4)(D) of the Act.

[25] *See* Attachment II of the Country-Specific CVD Initiation Checklists.

[26] *Id.*

determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.[27]

Injury Test

Because India and Russia are ''Subsidies Agreement Countries'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from India and Russia materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[28]

The petitioner contends that the industry's injured condition is illustrated by significant and increasing volume and market share of subject imports; lost sales and revenues; underselling and price depression and/or suppression; and declines in production, U.S. commercial shipments, and financial performance.[29] We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[30]

Initiation of CVD Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating CVD investigations to determine whether imports of granular PTFE resin from India and Russia benefit from countervailable subsidies conferred by the GOI and the GOR, respectively. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of these initiations.

India

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on all 24 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Russia

Based on our review of the Petitions, we find that there is sufficient information to initiate a CVD investigation on 19 of the 20 alleged programs. For a full discussion of the basis for our decision to initiate on each of these 19 programs and not to initiate on the remaining alleged program, *see* Russia CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

In the Petitions, the petitioner named eight companies in India and one company in Russia as producers/exporters of granular PTFE resin.[31] Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation.

India

In the event Commerce determines that the number of Indian producers/exporters is large and it cannot individually examine each company based upon Commerce's resources, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of granular PTFE resin from India during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the ''Scope of the Investigations,'' in the appendix.

On February 12, 2021, Commerce released CBP data for U.S. imports of granular PTFE resin from India under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of these investigations.[32] Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *http://enforcement.trade.gov/apo.*

Russia

In the Petition, the petitioner named only one company as a producer/exporter of granular PTFE resin in Russia, HaloPolymer OJSC, and provided independent, third-party information as support.[33] We currently know of no additional producers/exporters of granular PTFE resin from Russia. Accordingly, Commerce intends to examine all known producers/exporters (*i.e.,* HaloPolymer OJSC). We invite interested parties to comment on this issue. Such comments may include factual information within the meaning of 19 CFR 351.102(b)(21). Parties wishing to comment must do so within three business days of the publication of this notice in the **Federal Register**. Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. ET on the specified deadline. Because we intend to examine all known producers/exporters, if no comments are received or if comments received further support the existence of this sole producer/exporter in Russia, we do not intend to conduct respondent selection and will proceed to issuing the initial countervailing duty questionnaire to the company identified. However, if comments are received which create a need for a respondent selection process, we intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

[27] *Id.*

[28] *See* Volume I of the Petitions at I–23 and Exhibit I–27.

[29] *See* Volume I of the Petitions at I–26 through I–38 and Exhibits I–27, I–29 through I–35; *see also* General Issues Supplement at Exhibit Supp. I–1.

[30] *See* Country-Specific CVD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Granular Polytetrafluoroethylene Resin from India and Russia (Attachment III).

[31] *See* Volume I of the Petitions at I–20 and Exhibit I–26; and General Issues Supplement at 1–2.

[32] *See* Memorandum, ''Countervailing Duty and Antidumping Duty Petitions on Granular Polytetrafluoroethylene Resin from India: Release of Customs Data from U.S. Customs and Border Protection,'' dated February 12, 2021.

[33] *See* Volume I of the Petitions at I–20 and Exhibits I–3 and I–26; *see also* General Issues Supplement at 1–2.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOI and GOR via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that subject imports are materially injuring or threatening material injury to a U.S. industry.[34] A negative ITC determination for any country will result in the investigation being terminated with respect to that country.[35] Otherwise, these CVD investigations will proceed according to the statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [36] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[37] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting extension requests or factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[38] Parties must use the certification formats provided in 19 CFR 351.303(g).[39] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (*e.g.,* by filing the required letters of appearance).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 16, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The product covered by these investigations is granular polytetrafluoroethylene (PTFE) resin. Granular PTFE resin is covered by the scope of these investigations whether filled or unfilled, whether or not modified, and whether or not containing co-polymer, additives, pigments, or other materials. Also included is PTFE wet raw polymer. The chemical formula for granular PTFE resin is C_2F_4, and the Chemical Abstracts Service (CAS) Registry number is 9002–84–0.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise processed in a third country, including by filling, modifying, compounding, packaging with another product, or performing any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the granular PTFE resin.

The product covered by these investigations does not include dispersion or coagulated dispersion (also known as fine powder) PTFE.

PTFE further processed into micropowder, having particle size typically ranging from 1 to 25 microns, and a melt-flow rate no less than 0.1 gram/10 minutes, is excluded from the scope of these investigations.

Granular PTFE resin is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 3904.61.0010. Subject merchandise may also be classified under HTSUS subheading 3904.69.5000. Although the HTSUS subheadings and CAS Number are provided for convenience and customs purposes, the written description of the scope is dispositive.

[FR Doc. 2021–03622 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–DS–P

[34] *See* section 703(a) of the Act.

[35] *Id.*

[36] *See* 19 CFR 351.301(b).

[37] *See* 19 CFR 351.301(b)(2).

[38] *See* section 782(b) of the Act.

[39] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA889]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Southern Oregon/Northern California Coast (SONCC) Coho Workgroup (Workgroup) will host an online meeting that is open to the public.

DATES: The meeting will be held Thursday, March 25, 2021, from 9 a.m., Pacific Daylight Time, until 5 p.m., or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Ehlke, Pacific Council, (503) 820–2426.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to continue to develop associated modeling and analysis needed for a risk analysis and potential harvest control rule alternatives for Pacific Council consideration. The Workgroup may also discuss and prepare for future Workgroup meetings and future meetings with the Pacific Council and its advisory bodies.

Although nonemergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 business days prior to the meeting date.

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

Dated: February 18, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–03643 Filed 2–22–21; 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; Highly Migratory Species (HMS) Scientific Research Permits, Exempted Fishing Permits, Letters of Acknowledgment, Display Permits, and Shark Research Fishery Permits

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 October 28, 2020, (85 FR 68306) 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: Highly Migratory Species (HMS) Scientific Research Permits, Exempted Fishing Permits, Letters of Acknowledgement, Display Permits, and Shark Research Fishery Permits.

OMB Control Number: 0648–0471.

Form Number(s): None.

Type of Request: Regular submission [request for extension of a currently approved information collection].

Number of Respondents: 145.

Average Hours per Response: 2 hours for a scientific research plan; 40 minutes for an application for an EFP, display permit, SRP, LOA, or shark research fishery permit; 1 hour for an interim report; 40 minutes for an annual fishing report; 15 minutes for an application for an amendment; 5 minutes for notification of departure phone calls to NMFS Enforcement; 10 minutes for calls to request and observer; and 2 minutes for ''no-catch'' reports.

Burden Hours: 165.

Needs and Uses: Exempted fishing permits (EFPs), scientific research permits (SRPs), display permits, letters of acknowledgment (LOAs), and shark research fishery permits are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and/or the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). Issuance of EFPs and related permits is necessary for the collection of Atlantic Highly Migratory Species (HMS) for public display and scientific research that requires exemption from regulations (*e.g.,* seasons, prohibited species, authorized gear, minimum sizes) that otherwise may prohibit such collection. Display permits are issued for the collection of HMS for the purpose of public display, and a limited number of shark research fishery permits are issued for the collection of fishery-dependent data for future stock assessments and cooperative research with commercial fishermen to meet the shark research objectives of the Agency.

Regulations at 50 CFR 600.745 and 50 CFR 635.32 govern scientific research activity, exempted fishing, and exempted educational activities with respect to Atlantic HMS. Since the Magnuson-Stevens Act does not include scientific research within the definition of ''fishing,'' scientific research is exempt from this statute, and NMFS does not issue EFPs for bona fide research activities (*e.g.,* research conducted from a research vessel and not a commercial or recreational fishing vessel) involving species that are only regulated under the Magnuson-Stevens Act (*e.g.,* most species of sharks) and not under ATCA. NMFS requests copies of scientific research plans for these activities and indicates concurrence by issuing a LOA to researchers to indicate that the proposed activity meets the definition of scientific research and is therefore exempt from regulation.

Scientific research is not exempt from regulation under ATCA. NMFS issues SRPs for collection of species managed under this statute (*i.e.,* tunas, swordfish, billfish, and some shark species), which authorize researchers to collect Atlantic HMS from bona fide research vessels (*e.g.,* NMFS or university research vessel). NMFS will issue an EFP when research/collection involving such species occurs from commercial or recreational fishing platforms.

To regulate these fishing activities, NMFS needs information to determine the justification for granting an EFP, LOA, SRP, display, or shark research fishery permit. The application

requirements are detailed at 50 CFR 600.745(b)(2). Interim, annual, and no-catch/fishing reports must also be submitted to the Atlantic HMS Management Division within NMFS. The authority for NMFS requiring this information is found at 50 CFR 635.32.

Affected Public: Businesses or other for-profit organizations (vessel owners or aquariums); Not-for-profit institutions (academic researchers); State, Local, or Tribal governments (state agency researchers); Federal government (federal agency researchers).

Frequency: Permit applications, scientific research plans, and annual reports are submitted annually; interim and no catch reports are submitted monthly; departure notifications are submitted for each trip; permit amendment applications are submitted as needed.

Respondent's Obligation: Mandatory.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*)

This information collection request may be viewed at reginfo.gov. Follow the instructions to view 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 0648–0471.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–03629 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA892]

Fisheries of the Gulf of Mexico and Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 68 Assessment Webinar III for Gulf of Mexico and Atlantic scamp grouper.

SUMMARY: The SEDAR 68 assessment process of Gulf of Mexico and Atlantic scamp will consist of a series of data and assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 68 Assessment Webinar III will be held March 22, 2021, from 9 a.m. to 12 p.m., Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366, email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the data webinars, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 18, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–03640 Filed 2–22–21; 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 for Review and Approval; Comment Request; Southeast Region IFQ Programs

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 December 1, 2020, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: Southeast Region IFQ Programs.

OMB Control Number: 0648–0551.

Form Number(s): None.

Type of Request: Regular submission—extension and revision of a current information collection.

Estimated Number of Respondents: 1,164.

Estimated Time per Response:

- Dealer Landing Transaction Report, 6 minutes (electronic form)
- Dealer Landing Transaction Report, 5 minutes (paper form used in catastrophic conditions only)
- Dealer Cost Recovery Fee Submission through *pay.gov,* 3 minutes
- IFQ Notification of Landing, 5 minutes
- Transfer Shares, 3 minutes
- Share Receipt, 2 minutes
- Transfer Allocation, 3 minutes
- IFQ Online Account Application, 13 minutes
- Wreckfish Quota Share Transfer, 20 minutes
- Landing Transaction Correction Request, 5 minutes
- Commercial Reef Fish Landing Location Request, 5 minutes
- Account Update, 2 minutes
- Trip Ticket Update, 2 minutes
- Gulf Reef Fish Notification of Landing, 3 minutes
- IFQ Close Account, 3 minutes

Estimated Total Annual Burden Hours: 2,109.

Needs and Uses: The National Marine Fisheries Service's Southeast Regional Office manages three commercial individual fishing quota (IFQ) and individual transferable quota (ITQ) programs in the U.S. southeast region under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The IFQ programs for red snapper, and groupers and tilefishes occur in Federal waters of the Gulf of Mexico (Gulf), and the ITQ program for wreckfish occurs in Federal waters of the South Atlantic.

The NMFS Southeast Regional Office proposes to extend and revise parts of the information collection currently approved under OMB Control Number 0648–0551. This collection of information tracks the transfer and use of IFQ and ITQ shares, and IFQ allocation and landings by commercial fishermen necessary for NMFS to operate, administer, and review management of the IFQ and ITQ programs. Regulations for the IFQ and ITQ programs are located at 50 CFR part 622.

For the Gulf IFQ programs, the revisions would collect additional business and demographic information on the IFQ Online Account Application, as well as add a requirement to input the vessel signature personal identification number (PIN) a second time on the Dealer Landing Transaction Report if a criterion is met.

NMFS would revise the IFQ Online Account Application to obtain ownership percentage data for any business that participates in the Gulf IFQ programs, as well as the type of business, and confirmation of whether the business is small or large, as defined by Small Business Administration standards.

NMFS would revise the Dealer Landing Transaction Report to add a requirement for a shareholder to input the vessel signature PIN a second time if the landing transaction would result in a 10 percent overage of their catch allocation during that fishing year. NMFS proposes to add a feature to the Dealer Landing Transaction Report that would notify the shareholder that a 10 percent overage would occur and in which categories, and require the vessel signature PIN to accept the overage. Although the 10 percent overage is utilized infrequently, this would provide the shareholder the opportunity to transfer allocation and avoid using the 10 percent overage.

The purpose of revising the IFQ Online Account Application is to better comply with National Standard 4 (NS4) of the Magnuson-Stevens Act, the Regulatory Flexibility Act (RFA), and the Small Business Administration's regulations implementing the RFA, Executive Order 12898, and the ''fairness and equitable distribution'' provisions of the Magnuson-Stevens Act, including NS4 and section 303(b)(6). The purpose of revising the Dealer Landing Transaction Report is to better inform participants in the Gulf IFQ programs and require an additional verification from them when the existing flexibility measure of a 10 percent overage of their allocation would occur.

If implemented by NMFS, these administrative revisions would slightly increase the estimated time per response to complete the IFQ Online Account Application. NMFS estimates the time per response would increase from 10 to 13 minutes. However, NMFS does not expect the estimated time per response for the Dealer Landing Transaction Report to change. The cost of both the IFQ Online Account Application and the Dealer Landing Transaction Report would remain the same. NMFS proposes no other revisions to the existing information collections for the IFQ and ITQ programs approved in OMB Control No. 0648–0551.

Affected Public: Business or other for-profit organizations.

Frequency: Annually, quarterly, and on occasion.

Respondent's Obligation: Mandatory, required to obtain or retain benefits.

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

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 0648–0551.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–03627 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration; Ocean Exploration Advisory Board

AGENCY: Office of Ocean Exploration and Research (OER), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Ocean Exploration Advisory Board (OEAB). OEAB members will discuss and provide advice on Federal ocean exploration

programs, with a particular emphasis on the topics identified in the section on Matters to Be Considered.

DATES: The announced meeting is scheduled for Wednesday, April 7, 2021, and Thursday, April 8, 2021 from 1:00 p.m. to 5:00 p.m. EDT.

ADDRESSES: This will be a virtual meeting. Information about how to participate will be posted to the OEAB website at *https://oeab.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Mr. David McKinnie, Designated Federal Officer, Ocean Exploration Advisory Board, National Oceanic and Atmospheric Administration, *david.mckinnie@noaa.gov* or (206) 526–6950.

SUPPLEMENTARY INFORMATION: NOAA established the OEAB under the Federal Advisory Committee Act (FACA) and legislation that gives the agency statutory authority to operate an ocean exploration program and to coordinate a national program of ocean exploration. The OEAB advises NOAA leadership on strategic planning, exploration priorities, competitive ocean exploration grant programs, and other matters as the NOAA Administrator requests.

OEAB members represent government agencies, the private sector, academic institutions, and not-for-profit institutions involved in all facets of ocean exploration—from advanced technology to citizen exploration.

In addition to advising NOAA leadership, NOAA expects the OEAB to help to define and develop a national program of ocean exploration—a network of stakeholders and partnerships advancing national priorities for ocean exploration.

Matters to be Considered: The OEAB will discuss the following topics: (1) Ocean exploration in the context of administration priorities, (2) Annual review of the Office of Ocean Exploration and Research competitive grants program, (3) Office of Ocean Exploration and Research updates, and (4) other matters as described in the agenda. The agenda and other meeting materials will be made available on the OEAB website at *https://oeab.noaa.gov/*.

Status: The meeting will be open to the public with a 15-minute public comment period on the second day of the meeting, Thursday, April 8, 2021, from 3:00 p.m. to 3:15 p.m. EDT (please check the final agenda on the OEAB website to confirm the time). The public may listen to the meeting and provide comments during the public comment period via teleconference. Participation information will be on the meeting agenda on the OEAB website.

The OEAB expects that public statements at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to three minutes. The Designated Federal Officer must receive written comments by April 2, 2021, to provide sufficient time for OEAB review. Written comments received after April 2, 2021, will be distributed to the OEAB, but may not be reviewed prior to the meeting date.

Special Accommodations: Requests for sign language interpretation or other auxiliary aids should be directed to the Designated Federal Officer by April 2, 2021.

Dated: February 3, 2021.

David Holst,

Director Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–03550 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA859]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a one-day meeting via webinar of its Shrimp Advisory Panel (AP).

DATES: The webinar will convene on Tuesday, March 23, 2021, 8:30 a.m. to 5 p.m., EST. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Please visit the Gulf Council website *www.gulfcouncil.org* for meeting materials and webinar registration information.

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Matt Freeman, Economist, Gulf of Mexico Fishery Management Council; *matt.freeman@gulfcouncil.org,* telephone: (813) 348–1630. The Council's website, *www.gulfcouncil.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and other materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Tuesday, March 23, 2021; 8:30 a.m.–5 p.m.

Meeting will begin with adoption of agenda; approval of minutes from the November 16, 2020 webinar; and, a review of scope of work with its members. The AP will receive an update on Council actions in response to motions from the November 2020 Shrimp AP meeting and on National Marine Fisheries Service (NMFS) Shrimp Working Groups; review 2019 Gulf Shrimp Fishery Effort and Landings; review 2019 Royal Red Index; and, receive information on the Biological Review of Texas Closure. The AP will receive an update on Effort Data Collection: Status of 3G cellular Electronic Logbooks (cELBs); Pilot Program using P-Sea WindPlot; Alternative Options for Consideration; and Background—Council letter regarding the P-Sea WindPlot pilot program.

The AP will discuss Aquaculture Opportunity Areas in the Gulf of Mexico, Background—Council letter requesting establishment of fishery stakeholder advisory panel; Recommendations for Conducting a Kemp's Ridley Sea Turtle Stock Assessment; and, Research Projects to Improve Bycatch Estimates in the Shrimp Industry.

The AP will receive public testimony and discuss Other Business: Timeline for Shrimp AP Recruitment.

—Meeting Adjourns

The meeting will be broadcast via webinar. You may register by visiting *www.gulfcouncil.org* and clicking on the AP meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice

that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency at least 5 working days prior to the meeting.

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

Dated: February 18, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–03644 Filed 2–22–21; 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; U.S. Caribbean Commercial Fishermen Census

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Information Collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites 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. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before April 26, 2021.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *Adrienne.thomas@noaa.gov.* Please reference OMB Control Number 0648–0716 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Dr. Juan J. Agar, Southeast Fisheries Science Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149, 305–361–4218, *Juan.Agar@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for extension of an existing information collection.

The National Marine Fisheries Service (NMFS) proposes to conduct a census of small-scale fishermen operating in the United States (U.S.) Caribbean. This data collection applies to Puerto Rico and the U.S. Virgin Islands. The proposed socio-economic study will collect information on demographics, capital investment in fishing gear and vessels, fishing and marketing practices, economic performance, and miscellaneous attitudinal questions. The data gathered will be used for the development of amendments to fishery management plans, which require descriptions of the human and economic environment and socio-economic analyses of regulatory proposals. The information collected will also be used to strengthen fishery management decision-making and satisfy various legal mandates under the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 *et seq.;* MSA), Executive Order 12866, Regulatory Flexibility Act, Endangered Species Act (ESA), and National Environmental Policy Act (NEPA), and other pertinent statues.

II. Method of Collection

In-person, voluntary surveys will be used to collect the above-described information.

III. Data

OMB Control Number: 0648–0716.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,500.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 750 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*) and National Environmental Policy Act (NEPA).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may 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.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–03628 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA890]

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR data scoping webinar for SEDAR Procedural Workshop 8: Fishery Independent Index Development Under Changing Survey Design.

SUMMARY: The SEDAR Procedural Workshop 8 for Fishery Independent Index Development will consist of a series of webinars and an in-person workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR Procedural Workshop 8 data scoping webinar will be held March 17, 2021, from 11 a.m. until 1 p.m., Eastern Standard Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the data scoping webinar are as follows:

• Participants will discuss what data may be available for use in SEDAR Procedural Workshop 8.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: February 18, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–03641 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA891]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Joint Committee and Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, March 9, 2021 at 9 a.m.

ADDRESSES: All meeting participants and interested parties can register to join the webinar at *https://attendee.gotowebinar.com/register/7697564770086457103.*

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Joint Committee and Advisory Panel plan to discuss progress to date on potential habitat management action for the Northern Edge of Georges Bank. They will receive updates and will discuss offshore wind-related issues. The group also plans to discuss mechanisms for coordination with NOAA Fisheries on aquaculture planning. An update on Northeast Regional Habitat Assessment will be received. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: February 18, 2021.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–03645 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA866]

Programmatic Environmental Impact Statement for the NMFS Saltonstall-Kennedy Research and Development Program

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

ACTION: Notice of intent; announcement of public scoping meetings; request for written comments.

SUMMARY: NOAA announces its intent to prepare a Programmatic Environmental Impact Statement (PEIS) for the implementation of projects that foster the promotion, marketing, research, and development of U.S. Fisheries and their associated fishing sectors, as consistent with NOAA's Saltonstall-Kennedy Research and Development Program (S–K Program). The focus of this action will be activities and projects under the S–K Program, which interfaces with numerous programs within NOAA, and it is NOAA's intention that this PEIS may also cover those activities and projects implemented by other NOAA programs and offices that are consistent with the scope of the S–K Program. The S–K Program funds projects that address the needs of fishing communities, optimize economic benefits by building and maintaining sustainable fisheries (where the term ''fisheries'' includes commercial wild capture, recreational fishing, cultural and subsistence fishing, and marine aquaculture), and increase other opportunities to keep working waterfronts viable. This notice of intent (NOI) to prepare a PEIS initiates the public scoping process and invites interested parties to provide comments on the proposed project, its potential to affect the human environment, means for avoiding, minimizing, or mitigating those effects, the preliminary range of alternatives, and any additional reasonable alternatives that should be considered.

DATES: Written comments on this scoping process must be received no later than March 25, 2021.

ADDRESSES: Submit your comments on this scoping notice by *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov/docket/NOAA-NMFS-2021-0012.* Click the ''Comment Now!'' icon, complete the required fields, and 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 NOAA. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Comments will also be accepted at public scoping meetings. The webinar and telephone information for the public scoping meetings is provided below in the *Scoping Process* section.

FOR FURTHER INFORMATION CONTACT: Cliff Cosgrove, Saltonstall-Kennedy Program Manager, telephone: (301–427–8736); *nmfs.sk.peis@noaa.gov;* or visit the S–K Program website: *https://www.fisheries.noaa.gov/content/saltonstall-kennedy-research-and-development-program.*

SUPPLEMENTARY INFORMATION: As required by the National Environmental Policy Act (NEPA), the PEIS will analyze the environmental impacts of implementing each of the alternatives, if carried forward for full review following public scoping, by assessing the effects of each alternative on the human environment.

Project Scope

The purpose of this PEIS is to identify and evaluate the general impacts, issues and concerns related to the implementation of the types of projects that are consistent with the scope of the S–K Program. The PEIS will be used to support site- and project-specific NEPA reviews, as necessary. The PEIS will address all of the priorities, and their associated project types, that the S–K Program has funded to date, which cover the range of priorities and project types that fall under the S–K Program. The affected environment associated with the proposed action includes all coastal, estuarine, and marine habitats in the United States and its territories. It also includes inland habitats that influence or affect rivers, streams, and creeks affecting marine or estuarine waters, or that support migratory fish populations. It may also include adjacent or continuous habitats in Canada or Mexico that support living coastal and marine resources under NOAA trusteeship.

To ensure consideration of input from interested parties in each region, NOAA will conduct three public scoping meetings. Each meeting will be focused on a region or combination of regions based on time zone proximity. More information about each meeting, including meeting dates and times, can be found in the *Scoping Process* section below.

Background

In 1954, the Saltonstall-Kennedy Act (15 U.S.C. 713c–3) was passed to address the needs of U.S. fisheries and their associated fishing sectors, and thereby established the S–K Program. The Saltonstall-Kennedy Act states that The Secretary shall make grants to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, marketing, and associated infrastructures.

The S–K Program provides funding to projects that benefit fishing communities through the promotion, marketing, research, and development, of U.S. fisheries and their associated fishing sectors. Since its inception, grants have been provided to fishers, individuals, private businesses, fishing organizations, universities, states, research institutes, non-governmental organizations, and others.

The S–K Program is composed of a competitive grant program and a national program. Grants and cooperative agreements are provided under both programs and can occur in any of NMFS's five fisheries regions. The national program is designed to fund needed fishery industry projects that are not addressed through the competitive grants program. Funding for the S–K Program is determined through annual congressional appropriations. Historically, the S–K Program has had a diverse set of priorities, selecting between two and seven projects each year for funding. The primary priority has been projects that meet the purpose of promotion, development, and marketing (PDM) of U.S. fisheries and their associated fishing sectors, and NMFS anticipates that will continue to be the primary priority, but priorities can change annually and additional priorities can be chosen.

For more information about the S–K Program, please use the link provided in the **FOR FURTHER INFORMATION CONTACT** section above.

Proposed Action, Purpose, and Need

The proposed Federal action is to fund projects that are consistent with the scope of the S–K Program. The

purpose of the proposed action is threefold: (1) Address the needs of fishing communities, consistent with NOAA's mandate through the Saltonstall-Kennedy Act; (2) ensure NOAA continues to meet the requirements of the Saltonstall-Kennedy Act; and (3) assist NOAA in meeting its mission, ''To understand and predict changes in climate, weather, oceans, and coasts, to share that knowledge and information with others, and to conserve and manage coastal and marine ecosystems and resources''. The Proposed Action is needed to address the needs of fishing communities by building and maintaining sustainable fisheries, optimizing economic benefits, and increasing other opportunities to keep working waterfronts viable.

Types of projects funded by the S–K Program include, but are not limited to, promotion and marketing; aquaculture; gear testing; bycatch reduction engineering; research and monitoring; stock assessments; data collection; socioeconomic research; climate change; and workshops and conferences.

Alternatives

NOAA is preliminarily preparing to analyze two program-level alternatives: (1) A No Action Alternative, and (2) the proposed action, which NOAA is referring to as the Promotion, Marketing, Research and Development Alternative. Under the No Action Alternative, the S–K Program would not fund projects that address the needs of fishing communities, optimize economic benefits by building and maintaining sustainable fisheries, and increase other opportunities to keep working waterfronts viable. Although the No Action Alternative would not meet the purpose and need, it serves as a baseline against which the impacts of the Promotion, Marketing, Research and Development Alternative will be compared and contrasted. Implementation of the Promotion, Marketing, Research and Development Alternative, will allow for funding actions through federal financial assistance for all possible types of projects that meet the needs of U.S. fishing communities, consistent with the scope of the S–K Program. This alternative would provide the S–K Program with flexibility in choosing priorities each year while also considering the funding environment. We invite public comments on the proposed scope of the alternatives and are particularly interested in comments regarding potential additional alternatives.

Scoping Process

This notice initiates a public scoping period for the PEIS. Please review the information in this notice and additional information about the S–K Program, located on the NOAA S–K Program website (see the **FOR FURTHER INFORMATION CONTACT** section above). NOAA is particularly interested in receiving comments regarding biological, cultural, or ecological issues that the analysis should address. We also encourage comments that assist us in further delineating the proposed project, its potential to affect the human environment, means for avoiding, minimizing, or mitigating those effects, the preliminary range of alternatives, any additional reasonable alternatives that should be considered, and other issues of public concern. To promote informed decision-making, we especially encourage commenters to submit any scientific data, studies, or research that you feel is relevant to the analysis.

To facilitate the public and agency involvement in the PEIS process, NOAA will hold three public-scoping meetings during the scoping period. The meetings will be virtual in format. The scoping meetings will solicit input from the public and interested public agencies regarding the scope of environmental impacts to be addressed in the draft PEIS. Three virtual public scoping meetings (in webinar format only) will be held in each of three regions, as follows:

- Eastern and Gulf of Mexico Region (includes Atlantic States, Gulf of Mexico States, U.S. Virgin Islands, and Puerto Rico)—March 9, 2021
  - 12:00 p.m.–3:00 p.m. Central Standard Time (CST)
  - 1:00 p.m.– 4:00 p.m. Eastern Standard Time (EST)
- Western Region (includes Pacific States, Idaho, Alaska)—March 10, 2021
  - 10:00 a.m.–1:00 p.m. Pacific Standard Time (PST)
  - 9:00 a.m.–12:00 p.m. Alaska Standard Time (AKST)
- Western Pacific Region (includes Hawaii and Pacific Territories)—March 11, 2021, March 12, 2021
  - March 11, 2021, 2:00 p.m.–5:00 p.m. Hawaii-Aleutian Standard Time (HST)
  - March 12, 2021, 10:00 a.m.–1:00 p.m. Chamorro Standard Time (CHST)

Use the webinar link and dial-in information below to join one of the public scoping meetings:

Webinar Link: https://kearnsandwest.webex.com/meet/webexalias3
Access Code: 146 622 5582
Dial-in Information: 1–844–621–3956 (U.S. Toll Free) | +1–415–655–0001 (U.S. Toll)

Participants are encouraged to download the Webex Meetings app ahead of the meetings, using this link: *https://www.webex.com/downloads.html.* Then use the meeting link above to join a public scoping meeting at the appropriate time. You may also participate by phone toll-free by calling 1–844–621–3956, then entering the Access Code above when prompted.

After the comment period closes, NOAA will review and consider all comments received during the comment period and any other relevant information when developing the draft PEIS. Upon completion of the draft PEIS, a document announcing its availability and an opportunity to comment will be published in the **Federal Register**.

Authority: This PEIS will be prepared under the authority of, and in accordance with, the requirements of NEPA, implementing regulations published by the Council on Environmental Quality (40 CFR 1500–1508), other applicable regulations, and NOAA's policies and procedures for compliance with those regulations.

Dated: February 16, 2021.

Daniel A. Namur,

Director of the NMFS Financial Assistance Division, National Marine Fisheries Service.

[FR Doc. 2021–03626 Filed 2–22–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Waiver of the Referral Requirement for TRICARE Prime Enrollees, Not Including Active Duty Service Members (ADSMs), So They May Receive COVID–19 Vaccines From Any TRICARE-Authorized Non-Network Provider Without Incurring Point-of-Service Charges Where Applicable

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

ACTION: Notice of waiver.

SUMMARY: This notice is to advise TRICARE Prime enrollees, not including ADSMs, of a waiver to the referral requirement so they may receive COVID–19 vaccines, a clinical preventive service, from any TRICARE authorized non-network provider

without incurring POS charges where applicable.

DATES: This waiver is effective on December 13, 2020.

ADDRESSES: Defense Health Agency (DHA), 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Valerie Palmer, Defense Health Agency, 303–676–3557, *valerie.a.palmer3.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: In December 2019, an outbreak of respiratory disease caused by a novel coronavirus was detected in Wuhan City, Hubei Province, China. The virus has been named SARS–CoV–2 and the disease it causes has been named COVID–19. This virus has spread rapidly throughout the United States (U.S.) and around the world.

On January 31, 2020, the Secretary of the Department of Health and Human Services, Alex Azar, declared a public health emergency pursuant to Section 319 of the Public Health Service Act for the entire U.S. to aid in the Nation's health care community response to COVID–19, retroactive to January 27, 2020. On March 13, 2020, President Donald Trump declared that the COVID–19 outbreak in the U.S. constituted a national emergency, beginning March 1, 2020.

Thus far, two vaccines have been approved by the Food and Drug Administration (FDA) for the prevention of COVID–19 in the U.S. On December 11, 2020, the FDA issued an Emergency Use Authorization (EUA) for the Pfizer-BioNTech COVID–19 vaccine (Pfizer, Inc.; Philadelphia, Pennsylvania). Vaccination with the Pfizer-BioNTech COVID–19 vaccine consists of two doses administered intramuscularly, three weeks apart. On December 12, 2020, the Advisory Committee on Immunization Practices (ACIP) issued an interim recommendation for use of the Pfizer-BioNTech COVID–19 vaccine in persons aged 16 years and older for the prevention of COVID–19. The recommendation was published in an early release of the Morbidity and Mortality Weekly Report (MMWR) on December 13, 2020; thus, this vaccine may now be covered by TRICARE.

On December 18, 2020, the FDA issued an EUA for the Moderna COVID–19 (mRNA–1273) vaccine (ModernaTX, Inc; Cambridge, Massachusetts). Vaccination with the Moderna COVID–19 vaccine consists of two doses administered intramuscularly, four weeks apart. On December 19, 2020, the ACIP issued an interim recommendation for use of the Moderna COVID–19 vaccine in persons aged 18 years and older for the prevention of COVID–19. The recommendation was published in an early release of the MMWR on December 20, 2020; thus, this vaccine may also be covered by TRICARE.

Except under very special circumstances, a beneficiary enrolled in TRICARE Prime is required to obtain a referral for care through a designated primary care manager (or other authorized care coordinator) prior to obtaining care under the TRICARE program, otherwise POS charges apply. The DHA believes the widespread need for COVID–19 vaccines and the fact that supply of these vaccines may be limited is a special circumstance necessitating the waiver of the referral requirement for TRICARE Prime enrollees so they may receive a COVID–19 vaccine, a clinical preventive service, from any TRICARE authorized non-network provider without incurring POS charges where applicable. This waiver will apply for the period of the U.S. President's declaration of the COVID–19 national emergency.

Dated: January 25, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–03667 Filed 2–22–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0027]

Agency Information Collection Activities; Comment Request; Reaffirmation Agreement

AGENCY: Federal Student Aid, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before April 26, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0027. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Reaffirmation Agreement.

OMB Control Number: 1845–0133.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Individuals and Households; Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 12,110.

Total Estimated Number of Annual Burden Hours: 1,453.

Abstract: The Higher Education Act of 1965, as amended (HEA), established the Federal Family Education Loan (FFEL) Program, and the William D. Ford Federal Direct Loan (Direct Loan) Program under Title IV, Parts B and D respectively. The HEA provides for a maximum loan amount that a borrower can receive per year and in total. If a borrower receives more than the maximum amount, the borrower becomes ineligible for further Title IV aid (including Federal Pell Grants, Federal Supplemental Educational Opportunity Grants, Federal Work-Study, and Teacher Education Assistance for Higher Education (TEACH) Grants, Iraq and Afghanistan Service Grants) unless the borrower repays the excess amount or agrees to repay the excess amount according to the terms and conditions of the promissory note that the borrower signed. Agreeing to repay the excess amount according to the terms and conditions of the promissory note that the borrower signed is called ''reaffirmation'', which is the subject of this collection.

Dated: February 18, 2021.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–03639 Filed 2–22–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL20–70–000]

Tucson Electric Power Company; Notice of Supplement to Petition for Declaratory Order

Take notice that, on February 16, 2021, pursuant to Rule 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.212 (2020), Tucson Electric Power Company (Petitioner) submitted a supplement to its petition for declaratory order (Petition), filed on September 2, 2020, requesting that the Commission issue a declaratory order granting incentive rate treatment for its purchase of development rights and subsequent development associated with upgrades of a 64-mile transmission project between Tucson Electric's Vail and Tortolita substations, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern time on February 26, 2021.

Dated: February 17, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–03676 Filed 2–22–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–49–000]

Hecate Energy Greene County 3 LLC v. Central Hudson Gas & Electric Corp. and New York Independent System Operator Inc.; Notice of Complaint

Take notice that on February 11, 2021, pursuant to sections 206 and 306, of the Federal Power Act, 16 U.S.C. 824e and 825e and Rule 206 and 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Hecate Energy Greene County 3 LLC (Complainant or HEG 3) filed a formal complaint against New York Independent System Operator, Inc. (NYISO) and Central Hudson Gas & Electric Corp. (Central Hudson) (collectively, Respondents) requesting fast track processing and alleging that the Respondents violated the Federal Power Act and NYISO's Open Access Transmission Tariff (Tariff) by (1) failing to use reasonable efforts when processing Complainant's small generator interconnection request and (2) applying an Inclusion Practice regarding the firmness of generator interconnection requests that is not specified in the Tariff and that contradicted the Tariff provisions regarding queue position, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondents in the Commission's list of Corporate Officials.

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. The Respondents' answer and all interventions, or protests must be filed on or before the comment date. The Respondents' answer, motions to intervene, and protests must be served on the Complainant.

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.

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.

Comment Date: 5:00 p.m. Eastern Time on March 15, 2021.

Dated: February 17, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–03672 Filed 2–22–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3511–024]

Lower Saranac Hydro, LLC; Notice Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 3511–024.

c. *Date filed:* May 29, 2020.

d. *Applicant:* Lower Saranac Hydro, LLC.

e. *Name of Project:* Groveville Hydroelectric Project.

f. *Location:* On Fishkill Creek, in the City of Beacon, Dutchess County, New York. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Tim Carlsen, CEO, Hydroland, Inc.,[1] 403 Madison Ave. #240, Bainbridge Island, WA 98110; Phone at (844) 493–7612 or email at *tim@hydrolandcorp.com.*

i. *FERC Contact:* Jeremy Feinberg at (202) 502–6893 or *jeremy.feinberg@ferc.gov.*

j. *Deadline for filing scoping comments:* March 19, 2021.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–3511–024.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted but is not ready for environmental analysis at this time.

l. The Groveville Hydroelectric Project consists of: (1) A 167-foot-long, 37-foot-high concrete gravity dam, with a 140-foot-long spillway having a crest elevation of 172.4 feet National Geodetic Vertical Datum of 1929 (NGVD29) and topped with 3-foot-high wooden flashboards; (2) an impoundment with a gross storage capacity of approximately 43 acre-feet and a surface area of 5 acres at a normal pool elevation of 175.4 feet NGVD29; (3) an intake structure with two gates and a 27-foot-high, 34-foot-wide trash rack; (4) a 9-foot-diameter, approximately 140-foot-long riveted steel underground penstock; (5) a powerhouse containing three fixed-output turbine-generator units with a total rated capacity of 927 kilowatts; (6) a 4-foot-high submerged stilling basin weir approximately 60 feet downstream of the dam spillway; (7) a 20-foot-wide, 90-foot-long tailrace; (8) a 20-foot-long underground generator lead connecting to a step-up transformer that connects to a 13.2-kilovolt, 40-foot-long underground transmission line that then connects to a 15-foot-long aerial transmission line before connecting to the regional grid; and (9) appurtenant facilities.

m. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* scoping document) via the internet through the Commission's Home Page (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document (P–3511). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3673 or (202) 502–8659 (TTY).

n. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. *Scoping Process:* The Commission staff intends to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS) for the Groveville Hydroelectric Project in accordance with the National Environmental Policy Act (NEPA). The NEPA document will consider impacts and reasonable alternatives to the proposed action.

Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information, on the Scoping Document (SD) issued on February 17, 2021.

[1] In a February 9, 2021 filing, the Commission was notified that Enel Green Power North America, Inc. transferred all its ownership interests for Lower Saranac Hydro, LLC to Hydroland, Inc.

Copies of the SD outlining the subject areas to be addressed in the NEPA document were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of the SD may be viewed on the web 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, call 1–866–208–3676 or for TTY, (202) 502–8659.

Dated: February 17, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–03681 Filed 2–22–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14803–004]

PacifiCorp, Klamath River Renewal Corporation, and the States of California and Oregon; Notice of Application for Transfer of License, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of Project License.

b. *Project No:* 14803–004.

c. *Date Filed:* January 13, 2021.

d. *Applicant:* PacifiCorp, Klamath River Renewal Corporation, and the States of California and Oregon.

e. *Name of Project:* Lower Klamath Hydroelectric Project.

f. *Location:* The project is located on the Klamath River in Klamath County, Oregon and Siskiyou County, California. The project includes federal lands managed by the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* For transferor—PacifiCorp: Ryan Flynn, Chief Legal Officer, PacifiCorp, 825 NE Multnomah Street, Suite 2000, Portland, OR 97232, *ryan.flynn@pacificorp.com,* 503–813–5865.

For transferees—Klamath River Renewal Corporation: Mark Bransom, Chief Executive Director, Klamath River Renewal Corporation, 2001 Addison Street, Suite 317, Berkeley, CA 94704, (415) 820–4441, *info@klamathrenewal.org.*

State of California: Joshua E. Adrian, Duncan Weinberg Genzer & Pembroke, P.C., 1667 K Street NW, Suite 700, Washington, DC 20006, *jea@dwgp.com,* 202–791–3590.

State of Oregon: Anika E. Marriott, Sr. Assistant Attorney General, Oregon Department of Justice, 1162 Court Street NE, Salem, OR 97301, *Anika.E.Marriott@doj.state.or.us,* 503–947–4520.

i. *FERC Contact:* Diana Shannon, (202) 502–6136, *diana.shannon@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* March 19, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket numbers P–14803–004. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* On January 13, 2021, PacifiCorp (transferor) and the Klamath River Renewal Corporation (Renewal Corporation) and the States of California and Oregon (transferees) jointly filed an application to transfer the license for the Lower Klamath Project No. 14803 from PacifiCorp to the Renewal Corporation and the States of California and Oregon as co-licensees. PacifiCorp and the transferees jointly propose to transfer the license to Renewal Corporation and the States of California and Oregon for the purpose of surrendering, decommissioning, and removing the project dams, if approved separately by the Commission. The project includes four developments: J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate.

On July 16, 2020, the Commission issued an order approving a partial transfer of the license for the project from PacifiCorp to PacifiCorp and the Renewal Corporation as co-licensees. PacifiCorp, 172 FERC ¶ 61,062 (2020). The order was contingent on PacifiCorp remaining on the license as a co-licensee and required compliance with certain conditions before it would take effect. In the January 13 filing, PacifiCorp and the Renewal Corporation state that they do not accept their status as co-licensees under the July 16 order.

On November 17, 2020, in a separate proceeding, PacifiCorp and the Renewal Corporation filed an amended application to surrender the license and decommission the Lower Klamath Project. Decommissioning activities would include the full removal of the four developments. The Commission issued notice of that application on December 16, 2020, soliciting comments, motions to intervene, and protests in the surrender proceeding.

In the January 13 filing, the applicants request that, in any order approving the transfer, the Commission establish an extended period of time—until 30 days following any Commission order approving the surrender application—for the transferees to accept the license transfer and their co-licensee status. As a result, PacifiCorp would remain as the sole licensee for the Lower Klamath Project while the Commission considers what action to take on the surrender application.

l. *Locations of the Application:* This filing 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. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: February 17, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–03677 Filed 2–22–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1123–006.
Applicants: Union Electric Company.
Description: Supplement to January 21, 2021 Notice of Change in Status of Union Electric Company.
Filed Date: 2/16/21.
Accession Number: 20210216–5300.
Comments Due: 5 p.m. ET 3/9/21.

Docket Numbers: ER20–2471–002.
Applicants: NedPower Mount Storm, LLC.
Description: Compliance filing: Informational Filing Pursuant to Section 2 of the PJM Tariff to be effective 12/31/9998.
Filed Date: 2/17/21.
Accession Number: 20210217–5049.
Comments Due: 5 p.m. ET 3/10/21.

Docket Numbers: ER21–797–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Request to Defer Action: Revised ISA, SA No. 5869; Queue No. AE2–126 to be effective 12/31/9998.
Filed Date: 2/17/21.
Accession Number: 20210217–5093.
Comments Due: 5 p.m. ET 3/10/21.

Docket Numbers: ER21–917–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment to ISA/CSA, SA No. 5290 and 5308; Queue No. AC1–069 to be effective 1/28/2019.
Filed Date: 2/17/21.
Accession Number: 20210217–5045.
Comments Due: 5 p.m. ET 3/10/21.

Docket Numbers: ER21–1158–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2021–02–17_SA 3260 MidAmerican-Holliday Creek Solar 1st Rev GIA (J524) to be effective 2/10/2021.
Filed Date: 2/17/21.
Accession Number: 20210217–5010.
Comments Due: 5 p.m. ET 3/10/21.

Docket Numbers: ER21–1159–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2021–02–17_SA 3243 Deuel Harvest Wind-OTP 2nd Rev GIA (J526) to be effective 2/10/2021.
Filed Date: 2/17/21.
Accession Number: 20210217–5014.
Comments Due: 5 p.m. ET 3/10/21.

Docket Numbers: ER21–1160–000.
Applicants: Midcontinent Independent System Operator, Inc., Union Electric Company.
Description: § 205(d) Rate Filing: 2021–02–17_SA 2029 Ameren-City of Perry Missouri WDS to be effective 5/1/2021.
Filed Date: 2/17/21.
Accession Number: 20210217–5030.
Comments Due: 5 p.m. ET 3/10/21.

Docket Numbers: ER21–1161–000.
Applicants: Ohio Power Company, American Electric Power Service Corporation, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: AEP submits ILDSA SA No. 1419 and Two Facilities Agreements to be effective 4/19/2021.
Filed Date: 2/17/21.
Accession Number: 20210217–5082.
Comments Due: 5 p.m. ET 3/10/21.

Docket Numbers: ER21–1162–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2021–02–17_SA 3262 MidAmerican Energy—MidAmerican Energy 1st Rev GIA (J527) to be effective 2/3/2021.
Filed Date: 2/17/21.
Accession Number: 20210217–5095.
Comments Due: 5 p.m. ET 3/10/21.

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: February 17, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–03674 Filed 2–22–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1121–000]

Battle Creek Hydroelectric Project; Notice of Existing Licensee's Notice of Intent To Not File a New License Application, and Soliciting Notices of Intent To File a License Application and Pre-Application Documents

At least five years, but no more than five and one-half years, before the expiration of a license for a major water power project, the licensee must file with the Commission a letter that contains an unequivocal statement of the licensee's intent to file or not to file an application for a new license.[1]

[1] 18 CFR 16.6(c) (2020).

If such a licensee informs the Commission that it does not intend to file an application for a new license, nonpower license, or exemption for the project, the licensee may not file an application for a new license, nonpower license, or exemption for the project, either individually or in conjunction with an entity or entities that are not currently licensees of the project.[2]

On October 23, 2020, Pacific Gas & Electric Company (PG&E), the existing licensee for the Battle Creek Hydroelectric Project No. 1121, filed notice of its intent to not file an application for a new license. Therefore, pursuant to section 16.24(a)(1) of the Commission's regulations, PG&E may not file an application for a new license for the project, either individually or in conjunction with an entity or entities that are not currently licensees of the project.

The 36.1-megawatt (MW) Battle Creek Hydroelectric Project is located on the North and South Forks of Battle Creek, a tributary to the Sacramento River, in Shasta and Tehama Counties, California. The project occupies 93 acres of federal land managed by the U.S. Forest Service and the Bureau of Land Management. The existing license for the project expires on July 31, 2026.[3]

The principal project works consist of: (1) Two small upstream storage reservoirs; (2) three forebays; (3) twenty canals and pipelines and associated diversion dams; (4) penstocks leading to five powerhouses; (5) five 60-kV transmission lines with a total length of 50.3 miles; and (6) five substations.

Any party interested in filing a license application (*i.e.,* potential applicant) for the Battle Creek Hydroelectric Project No. 1121 must file a Notice of Intent (NOI)[4] and pre- application document (PAD).[5] Additionally, while the integrated licensing process (ILP) is the default process for preparing an application for a subsequent license, a potential applicant may request to use alternative licensing procedures when it files its NOI.[6]

The deadline for potential applicants, other than the existing licensee, to file NOIs, PADs, and requests to use an alternative licensing process is 120 days from the issuance date of this notice.

Applications for a new license from potential applicants, other than the existing licensee, must be filed with the Commission at least 24 months prior to the expiration of the existing license.[7] Because the existing license expires on July 31, 2026, applications for license for this project must be filed by July 31, 2024.

Questions concerning this notice should be directed to Rebecca Kipp (202) 502- 8846 or *rebecca.kipp@ferc.gov.*

Dated: February 16, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–03675 Filed 2–22–21; 8:45 am]

BILLING CODE 6717–01–P

[2] 18 CFR 16.24 (a)(1).

[3] Because PG&E filed the notice of intent to not file an application for a new license more than five and one-half years before the expiration of the license, we waive the applicable requirement in 18 CFR 16.6(c)(1).

[4] 18 CFR 5.5.

[5] 18 CFR 5.6.

[6] 18 CFR 5.3(b).

[7] 18 CFR 16.9(b)(1).

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 Number: PR12–20–001.
Applicants: NorthWestern Corporation.
Description: Tariff filing per 284.123(b)(1)/.: Rate Certification in Compliance with Docket No. CP11–76–000 under PR12–20.
Filed Date: 2/16/2021.
Accession Number: 202102165000.
Comments/Protests Due: 5 p.m. ET 3/9/2021.

Docket Numbers: RP21–482–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2021–02–12 Non-Conforming Negotiated Rate Amendment to be effective 2/13/2021.
Filed Date: 2/12/21.
Accession Number: 20210212–5073.
Comments Due: 5 p.m. ET 2/24/21.

Docket Numbers: RP21–483–000.
Applicants: TransCameron Pipeline, LLC.
Description: § 4(d) Rate Filing: Changes Normal filing 2021 Mar to be effective 3/16/2021.
Filed Date: 2/12/21.
Accession Number: 20210212–5075.
Comments Due: 5 p.m. ET 2/24/21.

Docket Numbers: RP21–484–000.
Applicants: TransCameron Pipeline, LLC.
Description: Petition for Limited Waiver of TransCameron Pipeline, LLC, under RP21–484.
Filed Date: 2/12/21.
Accession Number: 20210212–5117.
Comments Due: 5 p.m. ET 2/24/21.

Docket Numbers: RP21–485–000.
Applicants: ANR Pipeline Company.
Description: § 4(d) Rate Filing: Short Notice Start-Up to be effective 3/15/2021.
Filed Date: 2/12/21.
Accession Number: 20210212–5122.
Comments Due: 5 p.m. ET 2/24/21.

Docket Numbers: RP21–486–000.
Applicants: Empire Pipeline, Inc.
Description: Compliance filing Refund Report Per Settlement in RP18–940.
Filed Date: 2/12/21.
Accession Number: 20210212–5125.
Comments Due: 5 p.m. ET 2/24/21.

Docket Numbers: RP21–487–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20210212 Negotiated Rate to be effective 2/12/2021.
Filed Date: 2/12/21.
Accession Number: 20210212–5170.
Comments Due: 5 p.m. ET 2/24/21.

Docket Numbers: RP21–488–000.
Applicants: Guardian Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate PAL Agreements—Koch & Citadel to be effective 2/11/2021.
Filed Date: 2/12/21.
Accession Number: 20210212–5239.
Comments Due: 5 p.m. ET 2/24/21.

Docket Numbers: RP21–489–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: REX 2021–02–12 Negotiated Rate Agreement and Amendment to be effective 2/12/2021.
Filed Date: 2/12/21.
Accession Number: 20210212–5253.
Comments Due: 5 p.m. ET 2/24/21.

Docket Numbers: RP21–490–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 2.15.21 Negotiated Rates—Mieco LLC H–7080–89 to be effective 2/13/2021.
Filed Date: 2/16/21.
Accession Number: 20210216–5009.
Comments Due: 5 p.m. ET 3/1/21.

Docket Numbers: RP21–491–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreement—2/15/2021 to be effective 2/15/2021.
Filed Date: 2/16/21.
Accession Number: 20210216–5143.
Comments Due: 5 p.m. ET 3/1/21.

Docket Numbers: RP21–492–000.
Applicants: Guardian Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate PAL Agreement—Morgan Stanley Extension to be effective 2/12/2021.

Filed Date: 2/16/21.

Accession Number: 20210216–5201.

Comments Due: 5 p.m. ET 3/1/21.

Docket Numbers: RP21–493–000.

Applicants: Viking Gas Transmission Company.

Description: § 4(d) Rate Filing: Negotiated Rate PAL Agreement—World Fuel VR1048 Extension to be effective 2/12/2021.

Filed Date: 2/16/21.

Accession Number: 20210216–5217.

Comments Due: 5 p.m. ET 3/1/21.

Docket Numbers: RP21–494–000.

Applicants: Viking Gas Transmission Company.

Description: § 4(d) Rate Filing: Negotiated Rate PAL Agreement—World Fuel VR1050 & VR1051 to be effective 2/13/2021.

Filed Date: 2/16/21.

Accession Number: 20210216–5257.

Comments Due: 5 p.m. ET 3/1/21.

Docket Numbers: RP21–495–000.

Applicants: Midwestern Gas Transmission Company.

Description: § 4(d) Rate Filing: Negotiated Rate PAL Agreement—Exelon Generation Company, LLC to be effective 2/14/2021.

Filed Date: 2/16/21.

Accession Number: 20210216–5272.

Comments Due: 5 p.m. ET 3/1/21.

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: February 17, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–03673 Filed 2–22–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10019–64–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support (OMS), Environmental Protection Agency (EPA).

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Environmental Protection Agency's (EPA), Office of Acquisition Solutions is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974. Environmental Protection Agency's Acquisition System (EAS) is an automated contract writing and management system with configurable workflow used to initiate, award, modify and track acquisition actions for the procurement of goods and services.

DATES: Persons wishing to comment on this system of records notice must do so by March 25, 2021. New routine uses for this new system of records will be effective March 25, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OMS–2020–0210, by one of the following methods:

Regulations.gov: www.regulations.gov. Follow the online instructions for submitting comments.

Email: oei.docket@epa.gov.

Fax: 202–566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OMS–2020–0210. The EPA policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* website is an ''anonymous access'' system for EPA, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. Each agency determines submission requirements within their own internal processes and standards. EPA has no requirement to include personal information. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460.

Temporary Hours During COVID–19

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19.Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mailand faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.* The telephone number for the Public Reading Room is (202) 566–1744, and the telephone

number for the OMS Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Please submit questions to Victor Rodriguez, *rodriguez.victor@epa.gov* at 202–564–2212 or Richard Belles, *belles.richard@epa.gov* at 202–564–4339.

SUPPLEMENTARY INFORMATION: EAS is built using a commercial off the shelf product called PRISM that includes a purchase request form and workflow. EAS identifies employees who initiate acquisition actions or are assigned to work on these actions and includes those employees' Personally Identifiable Information (PII). EAS contains employee first name, last name, work email, work telephone number, and Local Area Network User Identification. This information is collected and used for internal EPA communication purposes and approval routing of the acquisition action. Privacy information is protected by limiting EAS access to authenticated users. Authentication is controlled using the agency's central authentication security controls.

SYSTEM NAME AND NUMBER:

EPA Acquisition System (EAS), EPA–86.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Acquisition Solutions, Environmental Protection Agency, Ronald Reagan Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460 and at the National Computer Center (NCC), 109 T.W. Alexander Drive RTP, NC 27711 for hosting.

SYSTEM MANAGER:

Kimberly Patrick, *patrick.kimberly@epa.gov,* 202–566–2605, Director, Office of Acquisition Solutions, Environmental Protection Agency, Ronald Reagan Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12072 (Aug. 16, 1978); Federal Property and Administrative Services Act of 1949, 40 U.S.C. 121; Office of Federal Procurement Policy Act of 1974 41 U.S.C. 1702.

PURPOSE(S) OF THE SYSTEM:

EPA uses EAS to initiate, award, modify and track acquisition actions. EAS identifies employees who initiate acquisition actions or are assigned to work on these actions. Specifically, the system tracks the requisitioner, contract official, contract specialist, and approving officials for each acquisition action.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered are EPA employees, that are the: (a) EPA Project Officer, *i.e.,* the individual who is responsible for the review and evaluation of the application or proposal and the monitoring of a resulting contract acquisition; (b) EPA Program Official, *i.e.,* the individual who is responsible for review and approval of applications or proposals for funding; (c) EPA Budget Official, *i.e.,* the individual who is responsible for certifying availability of funds for approved applications or proposals; (d) EPA Contracting Officer or Contract Specialist, *i.e.,* individuals who are responsible for awarding and administering contracts and (e) EPA Merit/Peer Reviewers, *i.e.,* individuals who provide a written review or evaluation of the application or proposal to the EPA Project Officer.

CATEGORIES OF RECORDS IN THE SYSTEM:

EAS collects employee first name, last name, work email, work telephone, EPA employee ID and LAN User ID information. The system also collects other information required for the tracking or approval of a contract action including contract proposals, technical reviews by a peer reviewer, records of contract awards, financial data, and other information. EAS also collects Vendor Contact information including Vendor Code, Legal Name, Data Universal Numbering System (DUNS) ID (a 9 character identifier used for identifying the Vendor), Cage Code (used to provide a standardized method of identifying a given facility at a specific location), address, phone number, fax number, and email address.

RECORD SOURCE CATEGORIES:

EAS collects EPA employee information from EPA's directory service. Contract proposals and vendor information is collected directly from the user via the federal government's System for Award Management (SAM).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The following new or modified routine uses apply to this system because the use of the record is necessary for the efficient conduct of the government. The routine uses for this system are compatible with the purpose for which their records are collected. The information may be disclosed to and for the following EPA General Routine Uses, published at 73 FR 2245: A, B, C, D, E, F, G, H, I, J and K. Routine uses L, and M apply in accordance with OMB M–17–12.

A. Disclosure for Law Enforcement Purposes. Information may be disclosed to the appropriate Federal, State, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

B. Disclosure Incident to Requesting Information. Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring), retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

C. Disclosure to Requesting Agency. Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget. Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

E. Disclosure to Congressional Offices. Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. Disclosure to Department of Justice. Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body

before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof;

2. Any employee of the Agency in his or her official capacity;

3. Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency have agreed to represent the employee; or

4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives. Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Disclosure to Contractors, Grantees, and Others. Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures for Administrative Claims, Complaints and Appeals. Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

J. Disclosure to the Office of Personnel Management. Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of Federal personnel management.

K. Disclosure in Connection with Litigation. Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

L. Disclosure to Persons or Entities in Response to an Actual or Suspected Breach of Personally Identifiable Information. To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that there has been a breach of the system of records, (2) the Agency has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Agency (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 Agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. Disclosure to assist another agency in its efforts to respond to a breach. To another Federal agency or Federal entity, when the Agency 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:

These records are maintained electronically on computer storage devices such as computer tapes and disks. The computer storage devices are located at EPA, Office of Acquisition Solutions, 1200 Pennsylvania Ave. NW, Washington, DC 20460. Backups will be maintained at disaster recovery sites, located at EPA Potomac Yards South (PYS) Data Center, 2777 Crystal Drive, Arlington, VA 22202 and EPA's National Computing Data Center (NCC), 109 T.W. Alexander Drive, Durham, NC 27709. Computer records are maintained in a secure, password protected environment. Access to computer records is limited to those who have a need to know. All EAS user accounts are assigned permissions as needed based on their job functions. Permission level assignments will allow users access only to those functions for which they are authorized. All records are maintained in secure, access-controlled areas or buildings.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the first name and last name of EPA employee, User ID, or Vendor ID (DUNS codes) associated with contracts.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

EPA will retain and dispose of EAS records in accordance with the National Archives and Records Administration General Records Schedule, and EPA Records Schedule 055. EAS records are retained for at least 6 years after contract closeout for non-Superfund actions, and 30 years after contract closeout for Superfund site actions.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Security controls used to protect Personally Identifiable Information in EPA Acquisition System (EAS) are commensurate with those required for an information system rated moderate for confidentiality, integrity, and availability, as prescribed in NIST Special Publication, 800–53, ''Recommended Security Controls for Federal Information Systems,'' Revision 4.

ADMINISTRATIVE SAFEGUARDS:

EPA personnel are required to complete annual agency Information Security and Privacy training. EPA personnel are instructed to lock their computers when they leave their desks.

TECHNICAL SAFEGUARDS:

Electronic records are maintained in a secure, password protected electronic system. EAS access is limited to authorized, authenticated users. All of the system's electronic communication utilizes Transport Layer Security (TLS) secure communication protocol for all transactions.

PHYSICAL SAFEGUARDS:

All records are maintained in secure, access-controlled areas or buildings.

Paper records are maintained in locked file cabinets.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information in this system of records

about themselves are required to provide adequate identification (*e.g.,* driver's license, military identification card, employee badge or identification card). Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations that implement the Privacy Act of 1974, at 40 CFR part 16.

CONTESTING RECORD PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURE:

Any individual who wants to know whether this system of records contains a record about themselves, should make a written request to the Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, *privacy@epa.gov.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2021–03582 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEI–2006–0037; FRL—10019–01–OMS]

Proposed Information Collection Request; Comment Request; Exchange Network Grants Progress Reports (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Exchange Network Grants Progress Reports (Renewal)'' (EPA ICR No. 2207.08, OMB Control No. 2025–0006) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through September 30, 2021. 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.

DATES: Comments must be submitted on or before April 26, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OEI–2006–0037; FRL—9982–33–OEI online using *www.regulations.gov* (our preferred method), by email to *oira_submission@omb.eop.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Edward Mixon or Dipti Singh, Information Exchange Services Division, Office of Information Management, Office of Mission Support (2823T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–2142 or 202–566–0739 respectively; email address: *mixon.edward@epa.gov* or *singh.dipti@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Eevaluate 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Under the U.S. EPA National Environmental Information Exchange Network (NEIEN) Grant Program, EPA collects information from the NEIEN grantees on assistance agreements that EPA has awarded. Specifically, for each project, EPA proposes to have grantees submit semi-annual reports on the progress and current status of each goal and output, completion dates for outputs, and any problems encountered. This information will help EPA ensure projects are on schedule to meet their goals and produce high quality environmental results. New award recipients will complete one Quality Assurance Reporting Form for each award. This form provides a simple means for grant recipients to describe how quality will be addressed throughout their projects. Additionally, the Quality Assurance Reporting Form is derived from guidelines provided in the NEIEN 2020 Grant Solicitation Notice.

Form Numbers: EPA Form 5300–26 (Semi-Annual Progress Report Form) and EPA Form 5300–27 (Quality Assurance Reporting Form).

Respondents/affected entities: State, tribal, and territorial environmental government offices.

Respondent's obligation to respond: Required to obtain or retain benefits (2 CFR part 200 and 2 CFR part 1500).

Estimated number of respondents: 149 total per year.

Frequency of response: Twice per year for the Semi-Annual Progress Report Form; one time per grant for the Quality Assurance Reporting Form.

Total estimated burden: 258.5 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $15,765.91 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is a decrease of 21.5 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This slight decrease in the burden is due to a reduction in the open Exchange Network Grants (from 172 to 149) that are expected to be active per year during the period of this ICR. The

reduction in the numbers of open grants explains the small reduction (of $421) in total annual respondent costs despite inflation in labor rates.

Dated: January 27, 2021.

Jennifer Campbell,

Director, Office of Information Management.

[FR Doc. 2021–03632 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10017–77–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support (OMS), Environmental Protection Agency (EPA).

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Environmental Protection Agency's (EPA), Office of Mission Support (OMS) is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974 (Privacy Act). The Online Library System (OLS) is being created as a data management system that allows the EPA to collect, store, retrieve and upload data about the collection of the libraries within the EPA National Library Network. The Circulation module of OLS collects Personally Identifiable Information (PII) that is subject to the Privacy Act.

DATES: Persons wishing to comment on this system of records notice must do so by March 25, 2021. Routine uses for this new system of records will be effective March 25, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No.OMS–2019–0646, by one of the following methods:

Regulations.gov: www.regulations.gov. Follow the online instructions for submitting comments.

Email: oei.docket@epa.gov.

Fax: 202–566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. OMS–2019–0646. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* website is an ''anonymous access'' system for EPA, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. Each agency determines submission requirements within their own internal processes and standards. EPA has no requirement of personal information. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. The Public Reading Room is normally open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OMS Docket is (202) 566–1752.

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Deborah Balsamo, OMS, Office of Enterprise Information Programs, 109 T.W. Alexander Dr., Mail code N127–05, Research Triangle Park, NC 27709; *balsamo.deborah@epa.gov*, (919) 541–9412.

SUPPLEMENTARY INFORMATION: OLS is a data management system that serves the EPA National Library Network. OLS is comprised of the National Library Catalog database and four operations modules: Serials Management, to track library subscriptions; Dispersals Management, to track the removal of library materials from their collections; Catalog Maintenance, which allows libraries to manage their specific library holdings records; and Circulation Management, which allows authorized library staff to register individuals who wish to borrow materials held in the library and track borrowed materials. The National Library Catalog database allows individuals to search for materials available in the collections of the 24 libraries within the EPA National Library Network. While the library holdings records in the National Library Catalog are accessible by the public, the operations and records management tools of the four modules are solely maintained by authorized library staff. The Circulation Management module is the only module of OLS that collects and uses PII that is also Privacy Act information.

SYSTEM NAME AND NUMBER:

Online Library System (OLS)—EPA–82.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

OLS is owned by the Office of Mission Support (OMS) and hosted at the EPA's National Computer Center at Research Triangle Park, NC. OMS Headquarters is located at Environmental Protection Agency (EPA), 1301 Constitution Ave. NW, Washington, DC 20460. The EPA's National Computer Center is at 109

Alexander Drive, Research Triangle Park, NC 27709.

SYSTEM MANAGER(S):

Deborah Balsamo, National Program Manager, OMS, Office of Enterprise Information Programs, 109 T.W. Alexander Dr., Research Triangle Park, NC 27709, Mail code N127–05; *balsamo.deborah@epa.gov; (919) 541–9412.*

AUTHORITY FOR MAINTENANCE OR THE SYSTEM:

5 U.S.C. 301 ''Departmental Regulations,'' 44 U.S.C. 3101 ''Records Management by Federal Agency Heads.''

PURPOSE(S) OF THE SYSTEM:

OLS is the data management system that serves to enable and enhance operations of the libraries in the EPA National Library Network.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who register to borrow materials from the Library can be EPA employees, EPA contractors, and non-EPA individuals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Circulation data consists of descriptive information about the library materials each patron has requested. Patron data consists of category (EPA employee, contractor, general public), name, optional address, email address, and optional phone number (for EPA staff and contractors these data consist only of work address, work email, work phone number, EPA office, and project officer (for contractors)).

RECORD SOURCE CATEGORIES:

The information for establishing a patron record in the Circulation module is obtained from the patron themselves and entered into the system by authorized library staff. There are three mandatory fields (name, email, office/division). If a requestor does not have an office the librarian can enter (N/A or none).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The following routine uses apply to this system because the use of the record is necessary for the efficient conduct of government operations. The routine uses are related to and compatible with the original purpose for which the information was collected. The last two routine uses are required under OMB M–17–12.

A. *Disclosure for Law Enforcement Purposes:* Information may be disclosed to the appropriate Federal, State, local, tribal or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

B. *Disclosure Incident to Requesting Information:* Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested) when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring) retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

C. *Disclosure to Requesting Agency:* Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. *Disclosure to Office of Management and Budget:* Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

E. *Disclosure to Congressional Offices:* Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. *Disclosure to Department of Justice:* Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear when:

1. The Agency, or any component thereof;

2. Any employee of the Agency in his or her official capacity;

3. Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency have agreed to represent the employee; or

4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to ligation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. *Disclosure to the National Archives:* Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. *Disclosure to Contractors, Grantees, and Others:* Information may be disclosed to EPA employees, contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job or other activity for the Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirement of the Privacy Act of 1974, as provided in 5 U.S.C. 552a(m).

I. *Disclosures for Administrative Claims, Complaints and Appeals:* Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

J. *Disclosure to the Office of Personnel Management:* Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of Federal personnel management.

K. *Disclosure in Connection With Litigation:* Information from this system

of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

L. *Disclosure to Persons or Entities in Response to an Actual of Suspected Breach of Personally Identifiable Information:* To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that there has been a breach of the system of records; (2) the Agency has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Agency (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 Agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. *Disclosure To Assist Another Agency in Its Efforts to Respond to a Breach:* To another Federal agency or Federal entity, when the Agency 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:

These records are maintained electronically on secure password protected servers. The secure servers and storage system reside in the National Computer Center's second floor computer room, 109 T.W. Alexander Drive, Research Triangle Park, NC 27709. Backups reside on a backup disk-based appliance and are replicated daily to an EPA-approved offsite location at Room S4730, 2777 Crystal Drive, Arlington, VA 22202.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by patron's first and last name, email address, and system-generated unique patron ID. Records are only retrievable by authorized library employees (who are EPA employees and contractors). These authorized library employees may only access patron data for the library at which the library employee works. The OLS Database Administrator, a library contractor, has access to all records in the OLS system and its modules.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

EPA will retain and dispose of these records in accordance with the National Archives and Records Administration General Records Schedule. OMS has established EPA record schedule 0088 for OLS. Records will be deleted or destroyed when the Agency determines they are no longer needed for administrative, legal, audit, or other purposes. The schedule provides disposal authorization for electronic files and hard copy printouts created to monitor system usage, including log-in files, audit trail files, and system usage files. EPA will delete or destroy records when it determines they are no longer needed for administrative, legal, audit, or other purposes.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

EPA uses security controls to protect PII/Privacy Act information in OLS commensurate with controls required for an information system rated moderate for confidentiality, integrity, and availability, as prescribed in NIST Special Publication, 800–53, ''Recommended Security Controls for Federal Information Systems,'' Revision 4.

Administrative Safeguards: EPA employees and contractors must complete annual agency training for Information Security and Privacy. EPA instructs contractors and employees to lock and secure their computers when unattended.

Technical Safeguards: The OLS Database Administrator, a library contractor, establishes authorized library employees upon request of the local library manager (EPA staff). Permission level assignments allow authorized users to access only those functions and records specific to the module they are using and their local library. EPA also has technical security measures including restrictions on computer access to authorized individuals and required use of a personal identity verification (PIV) card and password.

Physical Safeguards: EPA equipment used for OLS is located in a secure area of the National Computer Center, 109 T.W. Alexander Drive, Research Triangle Park, NC 27709.

RECORD ACCESS PROCEDURES:

EPA requires individuals seeking access to information in this system of records about themselves to provide adequate identification documentation (*e.g.,* driver's license, military identification card, employee badge or identification card). Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations that implement the Privacy Act of 1974, at 40 CFR part 16.

CONTESTING RECORD PROCEDURES:

Any individual who requests correction or amendment of OLS records must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURE:

Any individual who wishes to know whether this system of records contains a record about themselves, and to obtain a copy of any such record(s), should make a written request to the Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, *privacy@epa.gov.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2021–03584 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10017–76–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support (OMS), Environmental Protection Agency (EPA).

ACTION: Notice of a new system of records.

SUMMARY: The U.S. Environmental Protection Agency's (EPA), Office of Mission Support is giving notice that it proposes to create a new system of records pursuant to the provisions of the Privacy Act of 1974. Fleet Access (FA) is being created to comply with United States Code (U.S.C.) 175 Federal Motor Vehicle Expenditure Control and the General Services Administration (GSA)

Federal Management Regulation (FMR) B–15 requiring all federal agencies store and maintain vehicle asset data collected in a Fleet Management Information System (FMIS).

DATES: Persons wishing to comment on this system of records notice must do so by March 25, 2021. New routine uses for this new system of records will be effective March 25, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OMS–2020–0137, by one of the following methods:

Regulations.gov: www.regulations.gov. Follow the online instructions for submitting comments.

Email: oei.docket@epa.gov.

Fax: 202–566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OMS–2020–0137. The EPA policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* website is an ''anonymous access'' system for EPA, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. Each agency determines submission requirements within their own internal processes and standards. EPA has no requirement of personal information. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OMS Docket is (202) 566–1752.

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: General questions about the Fleet Access system should be made in writing to: James Cunningham, (202) 564–7212, *Cunningham.James@epa.gov;* Jackie Brown, (202) 564–0313, *Brown.Jackie@epa.gov;* and Jonathan Barnes, (202) 564–1950, *Barnes.Jonathan@epa.gov.*

SUPPLEMENTARY INFORMATION: Fleet Access stores vehicle level data such as license plate, VIN, make, model, acquisition value/and or lease rates as well as designations regarding alternative fuel, energy, and sustainability mandates. Fleet Access is used to produce an end-of-year report known as the Federal Automotive Statistical Tool Report (FAST Report) submitted jointly to the Department of Energy (DOE), the General Services Administration (GSA), and the Idaho National Lab (INL). The FAST report summarizes each vehicle's yearly data with respect to fuel, mileage, maintenance, acquisition, and disposal. Fleet Access also serves as a comprehensive standardized vehicle reservation system used by agency staff needing to reserve and utilize fleet vehicles for official agency business. Vehicle registration features of Fleet Access requires system users register personal business information in order to reserve agency fleet assets.

SYSTEM NAME AND NUMBER:

Fleet Access (FA)—EPA–85.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

AgileFleet (Fleet Access Service Provider): 14101 Willard Rd., Suite A, Chantilly, VA 20151; AgileFleet (Fleet Access Datacenter): 600 West 7th Street, Los Angeles, CA 900021, System Managers: 1200 Pennsylvania Ave. NW, Washington, DC 20460.

SYSTEM MANAGER(S):

James Cunningham, IT Project Manager, 1200 Pennsylvania Ave. NW, Washington, DC 20460, Mail code 3101M, *cunningham.james@epa.gov,* 202–564–7212.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 175—Federal Motor Vehicle Expenditure Control; Sections 15301 and 15302 of the Consolidated Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–272) (40 U.S.C. 17502 and 17503); and General Services Administration (GSA) FMR B–15.

PURPOSE(S) OF THE SYSTEM:

Fleet Access (FA) is a contractor owned and operated system used by EPA to comply with the General Services Administration (GSA) FMR B–15 requirement that each federal agency store and maintain vehicle asset data collected in a Fleet Management Information System (FMIS). The FA system serves two primary purposes: First, to store vehicle level data such as license plate, VIN, make, model, acquisition value/lease rates, designations regarding alternative fuel, energy and sustainability mandates. Which is used to produce the Federal Automotive Statistical Tool Report (FAST Report) as an end of year report. This end of year report is submitted jointly to the Department of Energy (DOE), the GSA, and the Idaho National

Lab (INL). The FAST report summarizes each vehicle's annual data with respect to fuel, mileage, maintenance, acquisition, and disposal. And second, it is used by EPA's Fleet program management, regional, local staff and support contractors as a standardized vehicle reservation system to reserve and utilize fleet vehicles for official agency business.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals covered by this system include EPA employees and EPA Contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

PII collected includes: Last Name, First Name, Work Phone Number, Work Email Address, Driver's License Expiration Date, and Profile Picture.

RECORD SOURCE CATEGORIES:

Fleet Access is a data management system that allows authorized EPA employees and contractors to store/maintain vehicle asset data and reserve agency vehicles across various programs/regions. PII information is collected directly from the user via an online registration form.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The following new or modified routine uses apply to this system because the use of the record is necessary for the efficient conduct of government. The routine uses are related to and compatible with the original purpose for which the information was collected.

A. Disclosure of Law Enforcement Purposes: Information may be disclosed to the appropriate Federal, State, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

B. Disclosure Incident to Requesting Information: Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested,) when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring), retention of a security clearance, the letting of a contract, or the issuance or retention of a grant or other benefit.

C. Disclosure to Requesting Agency: Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel or regulatory action.

D. Disclosure of Office of Management and Budget: Information may be disclosed to the Office of Management and Budget (OMB) at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

E. Disclosure to Congressional Offices: Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. Disclosure to Department of Justice: Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof;

2. Any employee of the Agency in his or her official capacity;

3. Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency have agreed to represent the employee; or

4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Disclosure of National Archives: Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Disclosure to Contractors, Grantees, and Others: Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures of Administrative Claims, Complaints and Appeals: Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission and Office of Government Ethics.

J. Disclosure to the Office of Personnel Management: Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of Federal personnel management.

K. Disclosure in Connection with Litigation: Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

L. Disclosure to Persons or Entities in Response to an Actual of Suspected Breach of Personally Identifiable Information: To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that there has been a breach of the system of records, (2) the Agency has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Agency (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 Agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. Disclosure to assist another agency in its efforts to respond to a breach: To another Federal agency or Federal entity, when the Agency 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:

The information collected within Fleet Access is maintained and stored in a database hosted by Aptum, a DataCenter Service Provider located at 600 West 7th Street, Los Angeles, California 900021 in accordance to the EPA record retention schedule 00–90-Administrative Support Databases. And EPA Record Schedule 1009—Motor Vehicles and Personal Property.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records for Fleet Access are retrievable by User ID and Last Name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Fleet Access complies with EPA Records Schedule 0090-Administrative Support Databases and EPA Record Schedule 1009—Motor Vehicles and Personal Property. Personnel information is retained for as long as the user or administrator determines necessary, generally, as long as the individual is employed by the EPA and requires vehicle reservation access. If a person no longer needs to reserve a vehicle for agency business, their user information is deleted permanently, in accordance with EPA Record Schedule 1009. Vehicle data is stored for a minimum of 3 years.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Security controls used to protect personal sensitive data in Fleet Access are commensurate with those required for an information system rated moderate for confidentiality, integrity, and availability, as prescribed in NIST Special Publication, 800–53, ''Recommended Security Controls for Federal Information Systems,'' Revision 4.

1. Administrative Safeguards: Personnel are required to complete annual agency Information Security and Privacy training. Personnel are instructed to lock their computers when they leave their desks.

2. Technical Safeguards: Access to Fleet Access is restricted to authorized users via login by username and password. All application passwords are encrypted in the database. User passwords cannot be seen by the administrators. The application is web-based, and user sessions encrypted. Authorized users are defined by an application administrator from within the application. Permission structures are currently role-based and are applied individually by an application administrator as needed.

3. Physical Safeguards: Equipment used for the purposes of hosting the Fleet Access is in a secure facility. Access to the secure facility is restricted to employees displaying valid identification badges. Access to the Network Operations Center is limited to authorized, network administrators and requires successful validation by additional authentication mechanisms. Access to the secure facility is logged. Power to the facility is insured by both battery backup and diesel generator. Fire suppression systems are in place.

The facility is staffed 24-hours-a-day, seven days a week.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information in this system of records about themselves are required to provide adequate identification (*e.g.,* driver's license, military identification card, employee badge or identification card). Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations that implement the Privacy Act of 1974, at 40 CFR part 16.

CONTESTING RECORD PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURE:

Any individual who wants to know whether this system of records contains a record about him or her, should make a written request to the Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, *privacy@epa.gov.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2021–03583 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0068; FRL–10020–58]

Certain New Chemicals; Receipt and Status Information for January 2021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Toxic Substances Control Act (TSCA) requires EPA to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 01/01/2021 to 01/31/2021.

DATES: Comments identified by the specific case number provided in this document must be received on or before March 25, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0068 and the specific case number for the chemical substance related to your comment, by using the *Federal eRulemaking Portal* at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited

exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 01/01/2021 to 01/31/2021. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the TSCA section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under TSCA, 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

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

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

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

II. Status Reports

In the past, EPA published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (See the **Federal Register** of May 12, 1995, (60 FR 25798) (FRL–4942–7). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the TSCA section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that

indicates whether the submission is an initial submission or an amendment, along with a notation of which version was received; the date the notice was received by EPA; the submitting manufacturer (*i.e.,* domestic producer or importer); the potential uses identified by the manufacturer in the notice; and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.,* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 01/01/2021 TO 01/31/2021

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–21–0007	1	12/21/2020	CBI	(G) Ethanol production	(G) Biofuel producing *Saccharomyces cerevisiae* modified, genetically stable.
J–21–0008	1	12/21/2020	CBI	(G) Ethanol production	(G) Biofuel producing *Saccharomyces cerevisiae* modified, genetically stable.
J–21–0009	1	12/21/2020	CBI	(G) Ethanol production	(G) Biofuel producing *Saccharomyces cerevisiae* modified, genetically stable.
P–16–0592A	6	01/08/2021	Santolubes Manufacturing LLC.	(S) This low viscosity diester will be blended with a higher viscosity ester to make a high efficiency gear lubricant primarily for worm gear applications.	(S) Fatty acids, C8–C10, diesters with alpha-hydro-w-hydroxypoly(oxy-1,4-butanediyl).
P–16–0592A	7	01/13/2021	Santolubes Manufacturing LLC.	(S) This low viscosity diester will be blended with a higher viscosity ester to make a high efficiency gear lubricant primarily for worm gear applications.	(S) Fatty acids, C8–C10, diesters with alpha-hydro-w-hydroxypoly(oxy-1,4-butanediyl).
P–18–0153A	4	01/27/2021	CBI	(G) Mixed metal oxide for batteries.	(G) Lithium mixed metal oxide.
P–18–0273A	3	01/04/2021	CBI	(G) Used in polymer manufacturing..	(S) 1,4-Cyclohexanedicarboxylic acid, 1,4-bis(2-ethylhexyl) ester.
P–18–0326A	9	01/14/2021	CBI	(G) Chemical Intermediate	(G) Alkanoic acid, alkyl ester, manuf. of, byproducts from, distn. residues.
P–18–0349A	6	12/31/2020	Lanxess Solutions US Inc.	(S) Two component adhesives and protective coatings for marine, infrastructure, etc. The urethane prepolymer is designed to react with epoxy materials to create a flexible coating or adhesive.	(S) Oxirane, 2-methyl-, polymer with oxirane, ether with 1,2,3-propanetriol (3:1), polymer with 2,4-diisocyanato-1-methylbenzene, branched 4-nonylphenol-blocked.
P–19–0098A	3	01/07/2021	Clariant Corporation	(S) Flame retardant additive for intumescent coatings.	(G) Phosphoric acid, polymer with (hydroxyalkyl)-alkanediol and alkanediol.
P–19–0122A	3	01/27/2021	CBI	(G) Reactant monomer in a polymer for industrial use.	(G) 2-propenoic acid, 2-(hydrogenated animal-based nitrogen-substituted) ethyl ester.
P–20–0010A	12	01/21/2021	CBI	(G) Polymerization auxiliary	(G) Carboxylic acid, reaction products with metal hydroxide, inorganic dioxide and metal.
P–20–0030A	4	01/26/2021	CBI	(S) Plasticizer for Plastisols, Plasticizer in caulks and sealants.	(G) Hexanedioic acid, carbomonocyclic esters.
P–20–0036A	4	01/12/2021	Sigma-Aldrich Co. LLC.	(G) Used in the manufacture of Lithium-6 Chloride.	(S) Carbonic acid, di(lithium-6Li) salt.
P–20–0071A	8	01/13/2021	CBI	(G) Colorant	(G) Salt of 2-Naphthalenesulfonic acid, hydroxy [(methoxy-methyl-4-sulfophenyl)diazenyl].
P–20–0078A	6	01/07/2021	Ascend Performance Materials.	(G) Stabilizer for industrial applications.	(G) Dicarboxylic acid, compd. with aminoalkyl-alkyldiamine alkyldioate alkyldioate (1:2:1:1).
P–20–0079A	6	01/07/2021	Ascend Performance Materials.	(G) Stabilizer for industrial applications.	(G) Dicarboxylic acid, compd. with aminoalkyl-alkyldiamine (3:2).
P–20–0080A	8	12/28/2020	Ascend Performance Materials.	(G) Stabilizer for industrial applications.	(G) Alkyldiamine, aminoalkyl-, hydrochloride (1:3).
P–20–0080A	9	01/07/2021	Ascend Performance Materials.	(G) Stabilizer for industrial applications.	(G) Alkyldiamine, aminoalkyl-, hydrochloride (1:3).
P–20–0081A	8	12/28/2020	Ascend Performance Materials.	(G) A stabilizer for industrial applications.	(G) Carboxylic acid, compd. with aminoalkyl-alkyldiamine (3:1).
P–20–0081A	9	01/07/2021	Ascend Performance Materials.	(G) A stabilizer for industrial applications.	(G) Carboxylic acid, compd. with aminoalkyl-alkyldiamine (3:1).
P–20–0082A	8	12/28/2020	Ascend Performance Materials.	(G) Stabilizer for industrial applications.	(G) Alkyldiamine, aminoalkyl-, carboxylate (1:3).
P–20–0082A	9	01/07/2021	Ascend Performance Materials.	(G) Stabilizer for industrial applications.	(G) Alkyldiamine, aminoalkyl-, carboxylate (1:3).
P–20–0083A	2	01/27/2021	CBI	(G) Reactant monomer in a polymer for industrial use.	(G) 2-propenoic acid, nitrogen-substituted alkyl, N-C16-18-acyl derivs.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 01/01/2021 TO 01/31/2021—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–20–0096A	4	01/28/2021	Solenis LLC	(G) Use in papermaking process.	(G) Unsaturated dicarboxylic acid polymer with 2-(dialkylamino)alkyl-alkyl-alkanoate, N, N-dialkyl-alkene amide, 2-propenamide and salt of alkyl-substituted alkene sulfonate.
P–20–0097A	4	01/06/2021	Nelson Brothers, LLC.	(S) The PMN substance will be used as an emulsifier for applications in explosives.	(G) Butanedioic acid, monopolyisobutylene derivs., mixed dihydroxyalkyl and hydroxyalkoxyalkyl diesters.
P–20–0101A	5	01/15/2021	Allnex USA Inc.	(S) Coating Resin	(G) Alkanoic acid, hydroxy-(hydroxyalkyl)-alkyl-, polymer with alpha-[(hydroxyalkyl)alkyl]-omega-alkoxypoly(oxy-alkanediyl), (haloalkyl)oxiane polymer (alkylalkylidene)bis[hydroxy-carbomonocycle] alkenoate and isocyanate-alkyl-carbomonocycle, hydroxyalkyl acrylate-blocked.
P–20–0105A	4	01/13/2021	Sound Agriculture Company.	(S) Maltol lactone is a compound that promotes microbial activity in the soil, resulting in increased availability of phosphorus for crops. This substance will be used on commercial farming operations.	(S) 4H-Pyran-4-one, 3-[(2,5-dihydro-4-methyl-5-oxo-2-furanyl)oxy]-2-methyl-.
P–20–0107A	4	01/13/2021	CBI	(G) Crosslinking polymer	(G) Carbimide, polyalkylenepolyarylene ester, polymer with 1,2-alkanediol, 2-alkoxyalkyl methacrylate- and 3-(2-alkoxyalkyl)-2-heterocycle-blocked.
P–20–0121A	2	01/25/2021	CBI	(S) Chemical intermediate	(G) Imidic acid, alkyl ester, sulfate.
P–20–0123A	2	01/25/2021	CBI	(S) Binder	(G) Nitrogen-substituted heterocycle, homopolymer, N-(nitrogen-substituted alkyl) derivs., sulfates.
P–20–0136A	2	01/18/2021	Clariant Corporation	(S) Surface treatment compound for textiles.	(G) Arylcarboxylic acid, alkyl ester, polymer with alkanediol, ester with methyloxirane polymer with oxirane alkyl ether.
P–20–0169A	5	01/22/2021	CBI	(G) Battery Plastics and coatings applications, conductive agent for conductive plastic and paint.	(S) Multiwalled carbon nanotube.
P–20–0173A	3	01/15/2021	ICM Products Inc	(G) Use as a Coating Additive	(G) Silsesquioxanes, alkyl, alkoxy- and hydroxy-terminated.
P–21–0005	4	01/22/2021	Evonik Corporation	(S) Polymeric additive in gear oils.	(G) Carbonmonocyclic alkene polymer with alkyl alkenoate, alkyl alkenoate, alkyl alkenoate and polyalkyldiene alkenoate.
P–21–0006A	3	01/19/2021	CBI	(G) Froth flotation to treat rare earth minerals and to remove deleterious substances.	(G) Naphthalene derivative.
P–21–0010A	4	01/07/2021	Evonik Degussa Corporation.	(S) 3D Printing	(S) 1,3-Benzenedicarboxylic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, hexanedioic acid, 1,6-hexanediol and 1,3-isobenzofurandione, N-[[1,3,3-trimethyl-5-[[[2-[(1-oxo-2-propen-1-yl)oxy]ethoxy]carbonyl]amino]cyclohexyl]methyl]carbamate N-[3,3,5-trimethyl-5-[[[[2-[(1-oxo-2-propen-1-yl)oxy]ethoxy]carbonyl]amino]methyl]cyclohexyl]carbamate.
P–21–0012A	2	01/12/2021	CBI	(G) The notified substance will be used as a fragrance ingredient.	(G) Multialkylbicycloalkenyl substituted propanenitrile.
P–21–0012A	3	01/21/2021	CBI	(G) The notified substance will be used as a fragrance ingredient.	(G) Multialkylbicycloalkenyl substituted propanenitrile.
P–21–0020	3	01/22/2021	Allnex USA Inc	(S) Modifier for hardness development in paint formulations for metal applications.	(G) Alkanedioic acid, dialkyl ester, polymer with dialkyl-alkanediol, alkyl(substituted alkyl)-alkanediol and heteropolycycle.
P–21–0021A	5	01/11/2021	J6 Polymers	(S) Raw material to be blending into R-side components of the polyurethane and polyisocyanurate industry. Specifically used in slabstock/bunstock processing of foam.	(S) Soybean oil, mixed esters with diethylene glycol, phthalic acid and terephthalic acid.
P–21–0034	3	01/06/2021	Evonik Degussa Corporation.	(S) Crosslinker for automotive coatings, wood and plastic coatings.	(G) Carbamic acid, N-[3-(trialkoxysilyl)propyl]-, C,C'-[2,2,4(or 2,4,4)-trimethyl-1,6-hexanediyl] ester.
P–21–0035	3	01/06/2021	Evonik Degussa Corporation.	(S) Crosslinker for automotive coatings, wood and plastic coatings.	(G) Carbamic acid, N-[3-(trialkoxysilyl)propyl]-, C,C'-[2,2,4(or 2,4,4)-trimethyl-1,6-hexanediyl] ester.
P–21–0043A	2	01/05/2021	Advanced Polymer Coatings.	(S) Component in protective coatings that provides chemical resistance.	(G) Glycidyl ether of (formaldehyde, polymer with mixed phenols).
P–21–0043A	3	01/08/2021	Advanced Polymer Coatings.	(S) Component in protective coatings that provides chemical resistance.	(G) Glycidyl ether of (formaldehyde, polymer with mixed phenols).
P–21–0051	2	01/12/2021	Designer Molecules, Inc.	(G) Resin component of an adhesive formulation.	(S) Fatty Acids, C18-unsatd., dimers, hydrogenated, polymers with 2-hydroxyethyl-terminated hydrogenated polybutadiene, bis(2,5-dihydro-2,5-dioxo-1H-pyrrole-1-hexanoate).
P–21–0052	2	01/04/2021	CBI	(G) The notified substance will be used as a fragrance ingredient.	(G) alkoxy-alkyl-octadiene; alkoxy-alkyl-octadiene.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 01/01/2021 TO 01/31/2021—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–21–0053	2	01/04/2021	CBI	(G) The notified substance will be used as a fragrance ingredient.	(G) (multialkyl substituted-cycloalkenyl)-methyl-pentenone; (multialkyl substituted-cycloalkenyl)-methyl-pentenone.
P–21–0054	3	01/08/2021	CBI	(G) Carpet treatment additive	(G) 2-Propenoic acid, 2-methyl-, aminoalkyl ester, polymer with hydroxyalkyl alkenoate and octadecyl alkenoate, acetate (salts).
P–21–0056	2	01/15/2021	CBI	(G) Component of coatings	(G) Isocyanic acid, polyalkylenepolyarylene ester, polymer with alkyl-hydroxyalkyl-alkanediol, alkoxyalcohol and alkoxylalkoxyalcohol-blocked.
P–21–0057	2	01/21/2021	CBI	(G) Component in coatings	(G) Sulfur based acid, compound with aminoalkylalkyl-aminoalkylalkoxy-polyoxyalkylalkanediyl, polymer with haloalkyl-epoxide and alkylalkylidene-cycloarylalcohol.
P–21–0058	2	01/21/2021	CBI	(G) Component in coatings	(G) Substituted alkanoic acid, compound with aminoalkylalkyl-aminoalkylalkoxy-polyoxyalkylalkanediyl, polymer with haloalkyl-epoxide and alkylalkylidene-cycloarylalcohol.
P–21–0060	2	01/21/2021	CBI	(G) Isolated intermediate	(G) Bisphenol A epichlorohydrin polymer with alkylpolyalkene-polyarylene-hydroxypolyoxyalkyldiyl reaction products with alkylalkylidene-alkylalkylidene-aminoalkyl-alkanepolyamine and alkylaminoalkanol.
P–21–0061	2	01/21/2021	CBI	(G) Component in coatings	(G) Sulfur based acid, compds. with modified bisphenol A-epichlorohydrin-polyalkylene polyol ether with bisphenol A polymer-N-dialkylalkylidene-N-(dialkylalklyidene)aminoalkyl-alkanepolyamine-alkylaminoalkanol reaction products.
P–21–0062	2	01/21/2021	CBI	(G) Component in coatings	(G) Substituted-alkanoic acid, compds. with modified bisphenol A-epichlorohydrin-polyalkylene polyol ether with bisphenol A polymer-N-dialkylalkylidene-N-dialkylalkylideneaminoalkyl-alkanepolyamine-alkylaminoalkanol reaction products.
P–21–0063	1	01/05/2021	CBI	(G) Component in herbicides	(G) Heterocyclic-polycarboxylic acid, polyhaloaryl-polyhydro-alkyl-polyalkyl ester.
P–21–0064	2	01/12/2021	CBI	(G) Photolithography	(G) Sulfonium, triphenyl-, polyfluoro-polyhydrospiro[9H-carbopolycyclic-9,2'-[4,7]methano[1,3]benzodioxole]-5'-alkenesulfonic acid (1:1).
P–21–0065	2	01/26/2021	Allnex USA Inc	(S) Improve the reactivity of ink formulation when cured under under LED UV light.	(G) Alkenoic acid, reaction products with alkylamine-alkanediyl diacrylate polymer and [oxybis(alkylene)]bis[alkyl-alkanediol].
P–21–0067	1	01/14/2021	Zymergen Inc	(G) Polymer used in the manufacture of films.	(G) Arylfurandione, [bis(trihaloalkyl)alkylidene]bis-, polymer with alkanediamine.
P–21–0068	1	01/18/2021	CBI	(G) Polymerization catalyst	(G) Metalloxanes, alkyl, alkyl group-terminated, reaction products with dihalo-dialkylalkylaryl-alkyl-polycyclic-ylidene(dialkylsilylene)-dialkylalkylaryl-alkylalkyl-polycyclic-ylidene, metal oxide and nonmetallic oxide.
P–21–0069	2	01/28/2021	AltAir Paramount LLC.	(S) Fuel	(S) Alkanes, C9–14-branched, cyclic and linear.
P–21–0070	2	01/28/2021	AltAir Paramount LLC.	(S) Fuel	(S) Alkanes, C4–8-branched and linear.
P–21–0073	1	01/21/2021	Evonik Corporation	(S) Plasticizer in PVC articles like roofing membranes, flooring or coated fabrics.	(S) 1,4-Cyclohexanedicarboxylic acid, 1,4-dinonyl ester, branched and linear (DINCD).
P–21–0074	1	01/21/2021	Designer Molecules, Inc.	(G) Resin component of an adhesive formulation.	(S) 1,3-Butadiene, homopolymer, hydrogenated, 2-(ethenyloxy)ethyl-terminated.
P–21–0075	1	01/29/2021	Allnex USA Inc	(S) Coating Resin	(G) Alkanoic acid, hydroxy-(hydroxyalkyl)-alkyl-, polymer with alpha-[(hydroxyalkyl)alkyl]-omega-alkoxypoly(oxy-alkanediyl), dialkyl carbonate, alkanediol, alkylene[isocyanato-carbomonocycle] and [oxybis(alkylene)]bis[alkyl-alkanediole] alkenoate, compd. with dialkyalkanamine.
SN–21–0001A	3	12/29/2020	CBI	(S) Chelating agent for use in hard surface cleaning (and disinfection), in laundry detergent.	(S) Glycine, N-(carboxymethyl)-N-[2-[(carboxymethyl)amino]ethyl]-, sodium salt (1:3).
SN–21–0001A	4	01/07/2021	CBI	(S) Chelating agent for use in hard surface cleaning (and disinfection), in laundry detergent.	(S) Glycine, N-(carboxymethyl)-N-[2-[(carboxymethyl)amino]ethyl]-, sodium salt (1:3).
SN–21–0001A	5	01/18/2021	CBI	(S) Chelating agent for use in hard surface cleaning (and disinfection), in laundry detergent.	(S) Glycine, N-(carboxymethyl)-N-[2-[(carboxymethyl)amino]ethyl]-, sodium salt (1:3).
SN–21–0002	1	01/27/2021	CBI	(G) Raw Material	(G) Aryl polyolefin.

*The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission prior to the start of the 90 day review period, and in no way reflects the final status of a complete submission review.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical

contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 01/01/2021 TO 01/31/2021

Case No.	Received date	Commencement date	If Amendment, type of amendment	Chemical substance
J–20–0003	01/19/2021	01/01/2021	N	(G) Genetically modified microorganism.
J–20–0004	01/19/2021	12/23/2020	N	(G) Genetically modified microorganism.
P–02–0202	01/12/2021	01/12/2021	N	(S) 2,5-furandione, polymer with 1,2-ethanediol and 2,2′-oxybis(ethanol), mixed 2-ethylhexyl and 3a,4,5,6,7,7a-hexahydro-4,7-methano-1h-inden-5 (or 6)-yl esters.
P–18–0029	01/28/2021	01/26/2021	N	(G) Fatty acids and fatty acid unsatd., reaction products with ethyleneamines and maleic anhydride.
P–18–0036	01/14/2021	01/08/2021	N	(S) Siloxanes and silicones, di-me, 3-[3-carboxy-2(or 3)-(octenyl)-1-oxopropoxy] propyl group terminated.
P–18–0065	01/05/2021	12/26/2020	N	(S) 1,3-propanediamine, n1,n1-dimethyl-n3-(2,2,6,6-tetramethyl-4-piperidinyl)-.
P–18–0105	01/08/2021	12/21/2020	N	(S) Phosphorous acid, triisotridecyl ester.
P–18–0264	01/15/2021	01/13/2021	N	(G) Phosphonomethylated ether diamine.
P–18–0303	01/26/2021	01/16/2021	N	(G) 2-propenoic acid, polymer with aliphatic cyclic epoxide.
P–19–0030	01/25/2021	01/05/2021	N	(G) Triethanolamine modified phosphinicocarboxylates, sodium salts.
P–20–0024	01/19/2021	01/14/2021	N	(G) Phenol-formaldehyde polymer with amino-oxirane copolymer and benzoates.

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 01/01/2021 TO 01/31/2021

Case No.	Received date	Type of test information	Chemical substance
P–14–0712	01/26/2021	Quarterly PCDD/F Test of PMN Substance using EPA Test Method 8290A.	(G) Plastics, wastes, pyrolyzed, bulk pyrolysate.
P–16–0543	01/25/2021	Exposure Monitoring Report December 2020	(G) Halogenophosphoric acid metal salt.
P–16–0543	01/25/2021	Exposure Monitoring Report	(G) Halogenophosphoric acid metal salt.
P–16–0543A	01/27/2021	Exposure Monitoring Report November 2020	(G) Halogenophosphoric acid metal salt.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: February 16, 2021.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2021–03611 Filed 2–22–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Reappointment of FASAB Chair and Member

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

SUPPLEMENTARY INFORMATION: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act as amended (5 U.S.C. App.), and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that Mr. George Scott has been reappointed to serve as the chair of the Federal Accounting Standards Advisory Board (FASAB or ''the Board'') beginning January 1, 2021. Mr. Scott's second five-year term will conclude on December 31, 2025.

Notice is also given that Ms. Gila Bronner has been reappointed to serve a second five-year term as a member of the Board beginning January 1, 2021. Her second five-year term will conclude on December 31, 2025.

Authority: Federal Advisory Committee Act, 5 U.S.C. App.

Dated: February 17, 2021.

Monica R. Valentine,

Executive Director.

[FR Doc. 2021–03561 Filed 2–22–21; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of 2021 Federal Accounting Standards Advisory Board Meetings

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

SUPPLEMENTARY INFORMATION: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act, as amended (5 U.S.C. App., Section 10), and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) will hold its meetings on the following dates throughout 2021, unless otherwise noted.

February 23–24, 2021
April 27–28, 2021
June 22–23, 2021
August 24–25, 2021
October 26–27, 2021
December 14–15, 2021

The purpose of the meetings is to discuss issues related to the following topics:

Accounting and Reporting of Government Land
Climate Impact and Risk Reporting
Intangible Assets
Leases
Note Disclosures
Omnibus
Public-Private Partnerships
Reexamination of Existing Standards
Budgetary Information
Management's Discussion and Analysis
Debt Cancellation
Intragovernmental Allowances
Non-Federal, Non-Entity Fund Balance with Treasury
Appointments Panel
Any other topics as needed

Notice is hereby given that a portion of each scheduled meeting may be closed to the public. The Appointments Panel, a subcommittee of FASAB that makes recommendations to the sponsors regarding appointments for non-federal member positions, is expected to meet during each meeting. A portion of each Appointments Panel meeting will be closed to the public. The reason for the closures is that matters covered by 5 U.S.C. 552b(c)(2) and (6) will be discussed. Any such discussions will involve discussions that relate solely to internal personnel rules and practices of the sponsor agencies and the disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. Such discussions will be segregated into separate discussions so that a portion of each meeting will be open to the public.

Pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), portions of advisory committee meetings may be closed to the public where the head of the agency to which the advisory committee reports determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code. The determination shall be in writing and shall contain the reasons for the determination. A determination has been made in writing by the U.S. Government Accountability Office, the U.S. Department of the Treasury, and the Office of Management and Budget, as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that such portions of the meetings may be closed to the public in accordance with subsection (c) of section 552b of title 5, United States Code.

Unless otherwise noted, FASAB meetings begin at 9:00 a.m. and conclude before 5 p.m. and are held at the U.S. Government Accountability Office (GAO) Building at 441 G St. NW in Room 7C13. The February, April, and June meetings will be held virtually. Agendas, briefing materials, and teleconference information for virtual meetings will be available at *https://www.fasab.gov/briefing-materials/* approximately one week before each meeting. If FASAB decides to hold its August, October, and/or December meetings virtually, this decision will be posted no later than one week before each meeting on the briefing materials website as well.

Any interested person may attend the meetings as an observer. Board discussion and reviews are open to the public except for those portions that are closed. GAO Building security requires advance notice of your attendance. If you wish to attend a FASAB meeting, please pre-register on our website at *https://www.fasab.gov/pre-registration/* no later than 12 p.m. the Monday before the meeting to be observed.

Authority: Federal Advisory Committee Act (5 U.S.C. App.), Government in the Sunshine Act (5 U.S.C. 552b).

Dated: February 17, 2021.

Monica R. Valentine,

Executive Director.

[FR Doc. 2021–03562 Filed 2–22–21; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1033; FRS 17442]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before April 26, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1033.

Title: Multi-Channel Video Program Distributor EEO Program Annual Report, FCC Form 396–C.

Form Number: FCC–396–C.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions.

Number of Respondents and Responses: 811 respondents, 952 responses.

Estimated Time per Response: 10 minutes–2.5 hours.

Frequency of Response: Recordkeeping requirement; Once every five year reporting requirement; Annual reporting requirement.

Obligation to Respond: Required to obtain benefits. The statutory authority for this collection of information is contained in Section 154(i) and 303 and 634 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,077 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The FCC Form 396–C is a collection device used to assess compliance with the Equal Employment Opportunity (EEO) program requirements of Multi-Channel Video Programming Distributors (''MPVDs''). It is publicly filed to allow interested parties to monitor a MPVD's compliance with the Commission's EEO requirements. All MVPDs must file annually an EEO report in their public file detailing various facts concerning their outreach efforts during the preceding year and the results of those efforts. MVPDs will be required to file their EEO public file report for the preceding year as part of the in-depth MVPD investigation conducted once every five years via the Form 396–C Supplemental Investigation Sheet.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–03539 Filed 2–22–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1046; FRS 17444]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before April 26, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

OMB Control Number: 3060–1046.

Title: Part 64, Modernization of Payphone Compensation Rules, et al., WC Docket No. 17–141, et al.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 260 respondents; 1,748 responses.

Estimated Time per Response: 0.50 hours–122 hours.

Frequency of Response: On occasion, one-time, and quarterly reporting requirements; third party disclosure requirements; and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154 and 276.

Total Annual Burden: 27,064 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information. Respondents may request confidential treatment of their information that they believe to be confidential pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: Section 276 of the Communications Act, as amended (the Act), requires that the Federal Communications Commission (Commission or FCC) establish rules ensuring that payphone service providers or PSPs are ''fairly compensated'' for each and every completed payphone-originated call. The Commission's Payphone Compensation Rules satisfy section 276 by identifying the party liable for compensation and establishing a mechanism for PSPs to be paid. A 2003 Report and Order (FCC 03–235) established detailed rules (Payphone Compensation Rules) ensuring that payphone service providers or PSPs are ''fairly compensated'' for each and every completed payphone-originated call pursuant to section 276 of the Communications Act, as amended (the Act), which the Commission revised in a 2018 Report and Order (FCC 18–21). The Payphone Compensation Rules satisfy section 276 by identifying the party liable for compensation and establishing a mechanism for PSPs to be paid. The Payphone Compensation Rules: (1) Place liability to compensate PSPs for payphone-originated calls on the facilities-based long distance carriers or switch-based resellers (SBRs) from whose switches such calls are completed; (2) define these responsible carriers as ''Completing Carriers'' and require them to develop their own system of tracking calls to completion; (3) require Completing Carriers to file with PSPs a quarterly report and also submit an attestation by a company official, including but not limited to the chief financial officer (CFO), that the payment amount for that quarter is accurate and is based on 100% of all completed calls; (4) require quarterly reporting obligations for other facilities-

based long distance carriers in the call path, if any, and define these carriers as ''Intermediate Carriers;'' and (5) give parties flexibility to agree to alternative compensation arrangements (ACA) so that small Completing Carriers may avoid the expense of instituting a tracking system. The revisions adopted in the 2018 Report and Order significantly decreased the paperwork burden on carriers.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–03540 Filed 2–22–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FRS 17441]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before April 26, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: FCC Authorization for Radio Service Authorization; Wireless Telecommunications Bureau; Public Safety and Homeland Security Bureau, FCC Form 601–2.0.

Form Number: FCC Form 601–2.0.

Type of Review: New collection.

Respondents: Individual and households, Business or other for-profit entities, state, local, or tribal government, and not for profit institutions.

Number of Respondents: 24 respondents; 176 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: Recordkeeping requirement; third party disclosure requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152, 155(c), 158, 201, 202, 208, 214, 301, 302a, 303, 307, 308, 309, 310, 311, 314, 316, 319, 324, 332, and 333 of the Communications Act of 1934.

Total Annual Burden: 88 hours.

Total Annual Cost: $18,150.

Privacy Impact Assessment: Yes.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: The Commission is submitting a request to the Office of Budget and Management (OMB) for approval of the FCC Form 601–2.0, a new data collection that will gradually replace the FCC Form 601 ((3060–0798). The Commission is implementing a new electronic licensing system called Universal Licensing System 2.0 (ULS 2.0) to replace the current Universal Licensing System (ULS). Services will gradually be moved to the new ULS 2.0, beginning with market-based Special Temporary Authority (STA) applications. The burden hours and costs associated with market-based STAs will now be a part of the ULS 2.0 system and FCC Form 601–2.0. The FCC Form 601–2.0 will be a consolidated electronic data collection for market-based and site-based licensing for wireless telecommunications services, including public safety, which will be filed through the Commission's modernized Universal Licensing System 2.0 (ULS–2.0). This form will gradually replace the FCC Form 601 (3060–0798) as services are moved from legacy ULS to ULS 2.0. The substance of and wording of the FCC Form 601 data collection will remain the same in the new system. The data collected in ULS 2.0 consists of administrative, technical, and other information needed for licensing if wireless radio services. Once fully implemented, this system will be used to submit all Wireless Services applications along with any supporting documentation. The application purposes include: Applying for a new license (including STA's) modifying or renewing an existing license, cancelling a license, submitting required notifications, requesting an extension of time to satisfy construction requirements, and requesting an administrative update to an existing license (such as mailing address change). Applicants can also amend or withdraw applications while they are pending in ULS.2.0. The data collected in ULS 2.0 includes the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires entities filing with the Commission to use an FRN. ULS 2.0 data records may include information about individuals or households, *e.g.,* personally identifiable information or PII, and the use(s) and disclosure of this information are governed by the requirements of a system of records notice or ''SORN'', FCC/WTB–1, ''Wireless Services Licensing Records.'' There are no additional impacts under the Privacy Act.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–03538 Filed 2–22–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company

Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than March 25, 2021.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Banner County Ban Corporation Employee Stock Ownership Plan and Trust, Harrisburg, Nebraska;* to acquire additional voting shares, for a total of 44.60 percent of the voting shares of Banner County Ban Corporation, and thereby indirectly acquire additional voting shares of Banner Capital Bank, both of Harrisburg, Nebraska.

B. Federal Reserve Bank of San Francisco (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105–1579:

1. *Carpenter Acquisition Corporation, Newport Beach, California;* to become a bank holding company by acquiring the voting shares of First Colorado Financial Corp., and thereby indirectly acquire First Colorado National Bank, both of Paonia, Colorado.

Board of Governors of the Federal Reserve System, February 18, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–03686 Filed 2–22–21; 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 March 10, 2021.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Lloyd Myatt Hancock, Anita Ramsey Richards, both of Sugarland, Texas; John W. Hancock, Jr., Karen Irene Jenkins, William R. Jenkins, Jr., William R. ''Chip'' Jenkins, III, and Susan Richards, all of El Campo, Texas; John W. ''Trey'' Hancock, III, Austin, Texas; Richard Myatt Ramsey, Danevang, Texas; and Phyllis Ramsey Lawhon, Lampasas, Texas;* as members of the control group, a group acting in concert, to retain voting shares of Louise Bancshares, Inc., and thereby indirectly retain voting shares of First State Bank, both of Louise, Texas, and Dilley State Bank, Dilley, Texas. Additionally, the John W. Hancock, Jr. SB Trust and Rita Hancock, as trustee, both of El Campo, Texas, to become members of the control group and acquire voting shares of Louise Bancshares, Inc., and thereby indirectly acquire voting shares of First State Bank and Dilley State Bank.

Board of Governors of the Federal Reserve System, February 18, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–03687 Filed 2–22–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Federal Trade Commission (FTC or Commission) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget (OMB) clearance for information collection requirements in the Commission's rules and regulations under the Textile Fiber Products Identification Act (Textile Rules). That clearance expires on May 31, 2021.

DATES: Comments must be received on or before April 26, 2021.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Textile Rules; PRA Comment: FTC File No. P072108'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jock K. Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC–9528, 600 Pennsylvania Ave. NW, Washington, DC 20580, (202) 326–2984.

SUPPLEMENTARY INFORMATION:

Title: Rules and Regulations under the Textile Fiber Products Identification Act, 16 CFR part 303.

OMB Control Number: 3084–0101.

Type of Review: Extension of a currently approved collection.

Likely Respondents: Manufacturers, importers, processors and marketers of textile fiber products.

Frequency of Response: Third party disclosure; recordkeeping requirement.

Estimated annual hours burden: 37,234,317 hours (1,180,725 recordkeeping hours + 36,053,592 disclosure hours).

Recordkeeping: 1,180,725 hours (approximately 18,165 textile firms incur average burden of 65 hours per firm).

Disclosure: 36,053,592 hours (621,725 hours to determine label content + 765,200 hours to draft and order labels + 34,666,667 hours to attach labels).

Estimated annual cost burden: $280,335,935 (solely relating to labor costs).

Abstract: The Textile Fiber Products Identification Act (Textile Act) [1] prohibits the misbranding and false advertising of textile fiber products. The Textile Rules establish disclosure requirements that assist consumers in making informed purchasing decisions, and recordkeeping requirements that assist the Commission in enforcing the Rules. The Rules also contain a petition procedure for requesting the establishment of generic names for textile fibers.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Commission's Textile Rules.

Textile Rules Burden Statement

Staff's burden estimates are based on data from the Department of Commerce's Bureau of the Census and International Trade Administration, the Department of Labor's Bureau of Labor Statistics (BLS), and data or other input from the main industry association, the American Apparel and Footwear Association (AAFA), and from SICCode.com, which specializes in the business classification of SIC (Standard Industrial Classification) and NAICS (North American Industry Classification System) codes for business identification, verification, and targeting. The AAFA, a national trade association that represents U.S. apparel, footwear and other sewn products companies and their suppliers, has stated that ''[t]he use of labels on textiles and apparels is beneficial to consumers, manufacturers, and business in general as it allows for the necessary flow of information along the supply chain.'' [2] The relevant information collection requirements in these Rules and staff's corresponding burden estimates follow. The estimates address the number of hours needed and the labor costs incurred to comply with the requirements. Staff believes that a significant portion of hours and labor costs currently attributable to burden below are time and financial resources usually and customarily incurred by persons in the course of their regular activity (*e.g.,* industry participants already have and/or would have fiber content labels regardless of the Rules) and could be excluded from PRA-related burden.[3]

Estimated annual hours burden: 37,234,317 hours (1,180,725 recordkeeping hours + 36,053,592 disclosure hours).

Recordkeeping: Staff estimates that approximately 18,165 textile firms are subject to the Textile Rules' recordkeeping requirements. Based on an average burden of 65 hours per firm, the total recordkeeping burden is 1,180,725 hours.

Disclosure: Approximately 9,565 textile firms, producing or importing about 20.8 billion textile fiber products annually, are subject to the Textile Rules' disclosure requirements.[4] Staff estimates the burden of determining label content to be 65 hours per year per firm, or a total of 621,725 hours. and the burden of drafting and ordering labels to be 80 hours per firm per year, or a total of 765,200 hours. Staff believes that the process of attaching labels is now fully automated and integrated into other production steps for about 40 percent of all affected products. For the remaining 12.48 billion items (60 percent of 20.8 billion), the process is semi-automated and requires an average of approximately ten seconds per item, for a total of 34,666,667 hours per year. Thus, the total estimated annual disclosure burden for all firms is 36,053,592 hours (621,725 hours to determine label content + 765,200 hours to draft and order labels + 34,666,667 hours to attach labels).[5] Staff believes that any additional burden associated with advertising disclosure requirements or the filing of generic fiber name petitions would be minimal (less than 10,000 hours) and can be subsumed within the burden estimates set forth above.

Estimated annual cost burden: $280,335,935 (solely relating to labor costs). The chart below summarizes the total estimated costs.

Task	Hourly rate	Burden hours	Labor cost
Determine label content	$29.00	621,725	$18,030,025
Draft and order labels	19.00	765,200	14,538,800
Attach labels	[6] 6.50	34,666,667	225,333,335
Recordkeeping	19.00	1,180,725	22,433,775

[1] 15 U.S.C. 70 *et seq.*

[2] Page one from comment by Kevin M. Burke, President and CEO, American Apparel & Footwear Association, March 26, 2012, *Advance Notice of Proposed Rulemaking; Request for Public Comment; Rules and Regulations under the Wool Products Labeling Act of 1939;* 77 FR 4498 (Jan. 30, 2012).

[3] 5 CFR 1320.3(b)(2).

[4] The estimated consumption of garments in the U.S. in 2012 was 19.4 billion. However, staff estimates that 1 billion garments are exempt from the Textile Act (*i.e.,* any kind of headwear and garments made from something other than a textile fiber product, such as leather) or are subject to a special exemption for hosiery products sold in packages where the label information is contained on the package. Based on available data, staff estimates that an additional 3 billion household textile products (non-garments, such as sheets, towels, blankets) were consumed. However, approximately 0.6 billion of all of these garments and household products are subject to the Wool Act, not the Textile Act, because they contain some amount of wool. Thus, the estimated net total products subject to the Textile Act is 20.8 billion (19.4 − 1 + 3 = 21.4 − 0.6 = 20.8 billion).

[5] The Commission revised the Textile Rules in 2006 in response to amendments to the Textile Act. *See* 70 FR 73369 (Dec. 12, 2005). These amendments concerned the placement of labels on packages of certain types of socks and, therefore, do not place any additional disclosure burden on covered entities. In 2014, the Commission revised the Textile Rules to clarify and streamline certain provisions and to allow more flexibility in marketing textile products (*e.g.,* allowing the use of certain hang-tags that do not disclose the product's full fiber content). The Commission sought comment on the increased burden, if any, imposed by these changes but did not receive any comments asserting that the amendments would increase compliance costs. *See* 79 FR 18766 (Apr. 4, 2014).

[6] For imported products, the labels generally are attached in the country where the products are manufactured. According to information compiled by an industry trade association using data from the U.S. Department of Commerce, International Trade Administration and the U.S. Census Bureau, approximately 97.5% of apparel used in the United States is imported. With the remaining 2.5% attributable to U.S. production at an approximate domestic hourly wage of $12 to attach labels, staff has calculated a weighted average hourly wage of $6.50 per hour attributable to U.S. and foreign labor combined.

Task	Hourly rate	Burden hours	Labor cost
Total			280,335,935

Staff believes that there are no current start-up costs or other capital costs associated with the Textile Rules. Because the labeling of textile products has been an integral part of the manufacturing process for decades, manufacturers have in place the capital equipment necessary to comply with the Rules' labeling requirements. Industry sources indicate that much of the information required by the Textile Act and Rules would be included on the product label even absent their requirements. Similarly, recordkeeping, invoicing, and advertising disclosures are tasks performed in the ordinary course of business; therefore, covered firms would incur no additional capital or other non-labor costs as a result of the Rules.

Request for Comments

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (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, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of maintaining records and providing disclosures to consumers. All comments must be received on or before April 26, 2021.

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before April 26, 2021. Write ''Textile Rules; PRA Comment: FTC File No. P072108'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

Due to the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Textile Rules; PRA Comment: FTC File No. P072108'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will become publicly available at *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . . is privileged or confidential'' —as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) —including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *www.regulations.gov,* we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 26, 2021. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2021–03604 Filed 2–22–21; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–21–0888]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Factors Influencing the Transmission of Influenza to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on October 13, 2020 to obtain comments from the public and affected agencies. CDC received two comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed

collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Factors Influencing the Transmission of Influenza (OMB Control No. 0920–0888, Exp. 2/28/21)—Extension—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The National Institute for Occupational Safety and Health (NIOSH) is authorized to conduct research to advance the health and safety of workers under Section 20(a)(1) of the 1970 Occupational Safety and Health Act. NIOSH is requesting an extension to an existing ICR (Expiration Date: February 28, 2021) because the ongoing COVID–19 pandemic temporarily halted the study in 2020 due to staff safety concerns and an inability to access healthcare facilities in order to recruit test subjects.

Influenza continues to be a major public health concern because of the substantial health burden from seasonal influenza and the potential for a severe pandemic. Although influenza is known to be transmitted by infectious secretions, these secretions can be transferred from person to person in many different ways, and the relative importance of the different pathways is not known. The likelihood of the transmission of influenza virus by small infectious airborne particles produced during coughing and breathing is particularly unclear. The question of airborne transmission is especially important in healthcare facilities, where influenza patients tend to congregate during influenza season, because it directly impacts the infection control and personal protective measures that should be taken by healthcare workers.

The purpose of this study is to gain a better understanding of the production of infectious aerosols by patients with influenza, and to compare this to the levels of biomarkers of influenza infection in the blood of these patients. To do this, airborne particles produced by volunteer subjects with influenza will be collected and tested for influenza virus, and the levels of influenza infection-associated biomarkers will be measured in blood samples from these subjects.

Volunteer adult participants will be recruited by a test coordinator using a poster and flyers describing the study. Interested potential participants will be screened verbally to verify that they have influenza-like symptoms and that they do not have any medical conditions that would preclude their participation. A matching number of healthy control participants will also be recruited. Qualified participants who agree to participate in the study will be asked to read and sign an informed consent form, and then to complete a short health questionnaire. After completing the forms, the participant's oral temperature will be measured and two nasopharyngeal mucus samples and five ml of blood will be collected. The participant then will be asked to don an elastomeric mask and breathe and cough normally for 40 minutes into an aerosol particle collection system. The total time from initial verbal screening to completion will be about 95 minutes. The study will require 90 volunteer test subjects each year for three years, for a total of 270 test participants. There are no changes to data collection instruments, methodology, or burden estimates. OMB approval is requested for three years. Participation is voluntary and there are no costs to respondents other than their time. The total estimated annualized burden hours are 148.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Potential participant	Initial verbal screening	180	1	3/60
Qualified participant	Informed consent form	90	1	15/60
Qualified participant	Health questionnaire	90	1	5/60
Qualified participant	Medical testing	90	1	72/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–03556 Filed 2–22–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers CMS–304/–304a, CMS–367a–d, and CMS–368/–R–144]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by March 25, 2021.

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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (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. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Reconciliation of State Invoice (ROSI) and Prior Quarter Adjustment Statement (PQAS); *Use:* Form CMS–304 (ROSI) is used by manufacturers to respond to the state's rebate invoice for current quarter utilization. Form CMS–304a (PQAS) is required only in those instances where a change to the original rebate data submittal is necessary. Effective July 1, 2021, the Medicaid Drug Rebate Program (MDRP) is updating to a new Medicaid Drug Programs (MDP) system which will now accept a delimited text file format, Comma Separated Values (.CSV), in addition to the current Text (.TXT) file format. We have also increased several file format data field sizes in order to accommodate the higher priced drugs that are entering the market. These changes in conjunction with numerous edits to verbiage are applicable to Forms CMS–304 and –304a. Separately, we are also updating corresponding collection of information requests (OMB 0938–0578 and OMB 0938–0582) so that all the MDP file formats, field sizes, and verbiage will align across the MDRP. *Form Number:* CMS–304 and –304a (OMB control number: 0938–0676); *Frequency:* Quarterly; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 749; *Total Annual Responses:* 5,841; *Total Annual Hours:* 248,584. (For policy questions regarding this collection contact Andrea Wellington at 410–786–3490.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicaid Drug Rebate Program Labeler Reporting Format; *Use:* Labelers transmit drug product and pricing data to CMS within 30 days after the end of each calendar month and quarter. CMS calculates the unit rebate amount (URA) and the unit rebate offset amount (UROA) for each new drug application (NDC) and distributes to all State Medicaid agencies. States use the URA to invoice the labeler for rebates and the UROA to report onto CMS–64. The monthly data is used to calculate Federal Upper Limit (FUL) prices for applicable drugs and for states that opt to use this data to establish their pharmacy reimbursement methodology. Effective July 1, 2021, the MDRP is updating to a new Medicaid Drug Programs (MDP) system which will now accept a delimited text file format, Comma Separated Values (.CSV), in addition to the current Text (.TXT) file format. We have also increased several file format data field sizes in order to accommodate the higher priced drugs that are entering the market. These changes in conjunction with numerous edits to verbiage are applicable to Forms CMS–367a (Quarterly Pricing), CMS–367b (Monthly Pricing), CMS–367c (Product Data), and CMS–367d (Manufacturer Contact Form). Separately, we are also updating corresponding collection of information requests (OMB 0938–0582 and OMB 0938–0676) so that all the MDP file formats, field sizes, and verbiage will align across the MDRP. *Form Number:* CMS–367a, b, c, and d (OMB control number: 0938–0578); *Frequency:* Monthly, quarterly, and on occasion; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 749; *Total Annual Responses:* 14,980; *Total Annual Hours:* 558,979. (For policy questions regarding this collection contact Andrea Wellington at 410–786–3490.)

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicaid Drug Rebate Program State Reporting Forms; *Use:* Form CMS 368 is a report of contact for the State to name the individuals involved in the Medicaid Drug Rebate Program (MDRP) and is required only in those instances where a change to the originally submitted data is necessary. The ability to require the reporting of any changes to these data is necessary to the efficient operation of these programs. Form

CMS–R–144 is required from States quarterly to report utilization for any drugs paid for during that quarter. Effective July 1, 2021, the MDRP is updating to a new Medicaid Drug Programs (MDP) system which will now accept a delimited text file format, Comma Separated Values (.CSV), in addition to the current Text (.TXT) file format. We have also increased several file format data field sizes in order to accommodate the higher priced drugs that are entering the market. These changes in conjunction with numerous edits to verbiage are applicable to Form CMS–R–144. Separately, we are also updating corresponding collection of information requests (OMB 0938–0578 and OMB 0938–0676) so that all the MDP file formats, field sizes, and verbiage will align across the MDRP. Form CMS–368 has been revised by removing the DUR State Contact information and description ''Drug Utilization Review (DUR) Program.'' This information is now accounted for under OMB 0938–0659. *Form Number:* CMS–368 and –R–144 (OMB control number: 0938–0582); *Frequency:* Quarterly and on occasion; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 290; *Total Annual Hours:* 13,669. (For policy questions regarding this collection contact Andrea Wellington at 410–786–3490.)

Dated: February 17, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–03535 Filed 2–22–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0197]

Agency Information Collection Activities; Proposed Collection; Comment Request; Shortages Data Collections

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collections associated with Shortages Data Collections and with notifications to FDA of an interruption or permanent discontinuance in manufacturing of certain medical devices as required by the Federal Food, Drug, and Cosmetic Act (FD&C Act).

DATES: Submit either electronic or written comments on the collection of information by April 26, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 26, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 26, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

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–2012–N–0197 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Shortages Data Collection.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' 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.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), 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 in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (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 revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Shortages Data Collections

OMB Control Number 0910–0491—Revision

Under section 1003(d)(2) of the FD&C Act (21 U.S.C. 393(d)(2)), the Commissioner of Food and Drugs is authorized to implement general powers (including conducting research) to carry out effectively the mission of FDA.

After the events of September 11, 2001, and as part of broader counterterrorism and emergency preparedness activities, FDA's Center for Devices and Radiological Health (CDRH) began developing operational plans and interventions that would enable CDRH to anticipate and respond to medical device shortages that might arise in the context of federally declared disasters/emergencies or regulatory actions. In particular, CDRH identified the need to acquire and maintain detailed data on domestic inventory, manufacturing capabilities, distribution plans, and raw material constraints for medical devices that would be in high demand and/or would be vulnerable to shortages in specific disaster/emergency situations or following specific regulatory actions. Such data could support prospective risk assessment, help inform risk mitigation strategies, support real-time decision making by the Department of Health and Human Services (HHS) during actual emergencies or emergency preparedness exercises, and mitigate or prevent harm to the public health.

This voluntary data collection process consists of outreach to firms who have been identified as producing or distributing medical devices that may be considered essential to the response effort. In this initial outreach, the intent and goals of the data collection effort will be described, and the specific data request made. Data will be collected, using least burdensome methods, in a structured manner to answer specific questions. After the initial outreach, we will request updates to the information on a quarterly basis to keep the data current and accurate. Additional followup correspondence may occasionally be needed to verify/validate data, confirm receipt of followup correspondence(s), and/or request additional details to further inform FDA's public health response. These data, collected under section 1003(d)(2) of the FD&C Act, are currently approved under OMB control number 0910–0491. We have made minor changes to this ''Shortages data collection'' at this time (see first row of table 1 of this document) to reflect additional learnings from recent experience.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was enacted on March 27, 2020. Section 3121 of the CARES Act amended the FD&C Act by adding section 506J (21 U.S.C. 356j). Section 506J of the FD&C Act provides FDA with new authorities intended to help prevent or mitigate medical device shortages by requiring medical device manufacturers to inform FDA about changes in device manufacturing that could potentially lead to a device shortage. Apprised with that information, section 506J authorizes FDA to take several actions that may help to mitigate or avoid supply disruptions.

Section 506J of the FD&C Act requires manufacturers of certain devices,[1] to notify FDA ''of a permanent discontinuance in the manufacture of the device'' or an interruption in ''the manufacture of the device that is likely to lead to a meaningful disruption in supply of that device in the United States'' during or in advance of a declared public health emergency (PHE), and the reason for such discontinuance or interruption.[2] Section 506J requires FDA to take action based on that information, including (1) publicly posting a list of devices it determines to be in shortage, (2) publicly posting the reasons for the shortage, and (3) issuing letters to manufacturers that fail to comply with the notification requirements of section 506J.

Section 3087 of the 21st Century Cures Act, signed into law in December 2016, added subsection (f) to section 319 of the Public Health Service Act. This new subsection gives the HHS Secretary the authority to waive PRA requirements with respect to voluntary collections of information during a PHE, as declared by the Secretary, or when a disease or disorder is significantly likely to become a PHE. In 2020 FDA published the immediately in effect guidance document entitled ''Notifying CDRH of a Permanent Discontinuance or Interruption in Manufacturing of a Device Under Section 506J of the FD&C Act During the COVID–19 Public Health Emergency (Revised)—Guidance for Industry and Food and Drug Administration Staff'' (see 86 FR 106, January 4, 2021)[3] to implement section 506J of the FD&C Act, as it relates to device shortages and potential device shortages occurring during the COVID–19 pandemic, for the duration of the COVID–19 PHE. The guidance includes

[1] Under section 506J of the FD&C Act, manufacturers of the following devices must notify FDA of an interruption or permanent discontinuance in manufacturing:

- Devices that are critical to public health during a public health emergency, including those that are life-supporting, life-sustaining, or intended for use in emergency medical care or during surgery; or
- Devices for which FDA determines information on potential meaningful supply disruptions is needed during a public health emergency.

See section 506J(a)(1) and (2) of the FD&C Act.

[2] See section 506J(a) of the FD&C Act.

[3] Available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/notifying-cdrh-permanent-discontinuance-or-interruption-manufacturing-device-under-section-506j-fdc.*

additional voluntary items that manufacturers could provide the Agency, including additional information about device manufacturing and supply, and updates to initial notifications. While PRA requirements for the voluntary information collections recommended in the guidance are waived [4] during the COVID–19 pandemic PHE using this new authority, mandatory collections such as those under section 506J of the FD&C Act may not be part of the waiver. FDA requested emergency clearance under 44 U.S.C. 3507(j) and 5 CFR 1320.13 to immediately approve revision of OMB control number 0910–0491 to add the information collection required by section 506J of the FD&C Act, as amended. The emergency clearance approval expires on May 31, 2021; therefore, CDRH is requesting a revision of OMB control number 0910–0491 to add the information collection required by 506J of the FD&C Act.

FDA estimates the burden of this collection of information as follows:

I. Shortages Data Collection Currently Approved Under OMB Control Number 0910–0491

FDA bases these estimates on past experiences with direct contact with the medical device manufacturers and distributors, and anticipated changes in the medical device manufacturing and distributions patterns for the specific devices that may be monitored. FDA estimates that there may be up to 500 manufacturers and distributors for which there may be targeted outreach because their devices may be essential to the response effort. This targeted outreach will be conducted quarterly to either obtain primary data or to verify/validate updated data (although additional outreach may be undertaken as needed).

From the manufacturer and distributor's point of view, the data being requested represent common data elements that they monitor and track as part of routine business operations and therefore are readily available. It is anticipated that for most manufacturers and distributors, the estimated time to fulfill CDRH's data request will not exceed 30 minutes per request, or 2 hours per year.

II. Information Collection Under Section 506J of the FD&C Act and Related Voluntary Collections

Based on current registration and listing data (approved under OMB control number 0910–0625), we estimate the number of respondents that will submit a notification under section 506J of the FD&C Act to be approximately 20 percent of currently registered manufacturers. Data from our Registration & Listing system indicates that there are approximately 42,000 unique FDA Establishment Identification registered manufacturers. Therefore, we estimate 8,400 respondents per year. We believe that the burden as well as the provision of required information under section 506J of the FD&C Act—as well as additional voluntary information related to the determination (including additional issues that may impact the availability of the device, such as information about critical suppliers, potential mitigations, production capacity and market share, and notification updates)—is minimal and such information is readily available to manufacturers of the applicable devices. Therefore, we estimate the burden of this information collection to be 15 minutes or less per determination and notification.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Shortages data collection	500	4	2,000	0.5 (30 minutes)	1,000
Information collection under section 506J of the FD&C Act.	8,400	1	8,400	0.25 (15 minutes)	2,100
Additional voluntary collections related to section 506J of the FD&C Act.	8,400	1	8,400	0.25 (15 minutes)	2,100
Total			18,800		5,200

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The information collection reflects a revision to add the information collection required by section 506J of the FD&C Act (as amended by section 3121 of the CARES Act) and additional voluntary collections related to section 506J of the FD&C Act to OMB control number 0910–0491.

Upon review of OMB control number 0910–0491, we note that there is a data-entry error in the RISC/ORIA Combined Information System (ROCIS) for a previous information collection approval on February 3, 2020. Currently, ROCIS lists the total burden hours for that approval as 390 hours; the correct total burden hour estimate is 520 hours. This error has carried through to the current total hour burden listed in ROCIS as 2,481 hours for the approval on November 24, 2020; the correct total burden hour estimate should be 2,611 hours. We will correct this error upon submission of this information collection request to OMB.

Additionally, we have updated the number of respondents in each information collection to reflect our current data and estimations.

These revisions and adjustments reflect an overall increase of 2,589 hours to the (corrected) estimated total burden.

Dated: February 16, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–03630 Filed 2–22–21; 8:45 am]

BILLING CODE 4164–01–P

[4] See *https://aspe.hhs.gov/system/files/pdf/258866/FDA-PHE-PRA-Waiver-Notice_COVID-19_03.19.20.pdf.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0231]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Adverse Experience Reporting for Licensed Biological Products; and General Records

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by March 25, 2021.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0308. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Adverse Experience Reporting for Licensed Biological Products and General Records—21 CFR Part 600

OMB Control Number 0910–0308—Extension

Under the Public Health Service Act (42 U.S.C. 262), FDA may only approve a biologics license application for a biological product that is safe, pure, and potent. When a biological product is approved and enters the market, the product is introduced to a larger patient population in settings different from clinical trials. New information generated during the postmarketing period offers further insight into the benefits and risks of the product, and evaluation of this information is important to ensure its safe use. FDA issued its Adverse Experience Reporting System (FAERS) requirements in part 600 (21 CFR part 600) to enable FDA to take actions necessary for the protection of the public health in response to reports of adverse experiences related to licensed biological products. The primary purpose of FAERS is to identify potentially serious safety problems with licensed biological products. Although premarket testing discloses a general safety profile of a biological product's comparatively common adverse effects, the larger and more diverse patient populations exposed to the licensed biological product provides the opportunity to collect information on rare, latent, and long-term effects. In addition, production and/or distribution problems have contaminated biological products in the past.

FAERS reports are obtained from a variety of sources, including manufacturers, patients, physicians, foreign regulatory agencies, and clinical investigators. Identification of new and unexpected safety issues through the analysis of the data in FAERS contributes directly to increased public health protection. For example, evaluation of these safety issues enables FDA to take focused regulatory action. Such action may include, but is not limited to, important changes to the product's labeling (such as adding a new warning), coordination with manufacturers to ensure adequate corrective action is taken, and removal of a biological product from the market when necessary.

Section 600.80(c)(1) requires licensed manufacturers or any person whose name appears on the label of a licensed biological product to report each adverse experience that is both serious and unexpected, whether foreign or domestic, as soon as possible but in no case later than 15 calendar days of initial receipt of the information by the licensed manufacturer. These reports are known as postmarketing 15-day Alert reports. This section also requires licensed manufacturers to submit any followup reports within 15 calendar days of receipt of new information or as requested by FDA, and if additional information is not obtainable, to maintain records of the unsuccessful steps taken to seek additional information. In addition, this section requires that a person who submits an adverse action report to the licensed manufacturer, rather than to FDA, maintain a record of this action.

Section 600.80(e) requires licensed manufacturers to submit a 15-day Alert report for an adverse experience obtained from a postmarketing clinical study only if the licensed manufacturer concludes that there is a reasonable possibility that the product caused the adverse experience.

Section 600.80(c)(2) requires licensed manufacturers to report each adverse experience not reported in a postmarketing 15-day Alert report at quarterly intervals, for 3 years from the date of issuance of the biologics license, and then at annual intervals. The majority of these periodic reports are submitted annually, since a large percentage of currently licensed biological products have been licensed longer than 3 years.

Section 600.80(k) requires licensed manufacturers to maintain for a period of 10 years records of all adverse experiences known to the licensed manufacturer, including raw data and any correspondence relating to the adverse experiences.

Section 600.81 requires licensed manufacturers to submit, at an interval of every 6 months, information about the quantity of the product distributed under the biologics license, including the quantity distributed to distributors. These distribution reports provide FDA with important information about products distributed under biologics licenses, including the quantity, certain lot numbers, labeled date of expiration, the fill lot numbers for the total number of dosage units of each strength or potency distributed (*e.g.,* 50,000 per 10-milliliter vials), and date of release. FDA may require the licensed manufacturer to submit distribution reports under this section at times other than every 6 months.

Under § 600.82(a), an applicant of a biological product or blood and blood component must notify FDA of a permanent discontinuance of manufacture or an interruption in manufacturing or disruption in supply, as applicable. Under §§ 600.80(h)(2) and 600.81(b)(2), a licensed manufacturer may request a temporary waiver for the requirements under §§ 600.80(h)(1) and 600.80(b)(1), respectively. Requests for waivers must be submitted in accordance with § 600.90. Under § 600.90, a licensed manufacturer may submit a waiver request for any requirements that apply to the licensed manufacturer under §§ 600.80 and 600.81. A waiver request submitted under § 600.90 must include supporting documentation.

Manufacturers of biological products for human use must keep records of each step in the manufacture and distribution of a product, including any recalls. These recordkeeping requirements serve preventative and remedial purposes by establishing accountability and traceability in the manufacture and distribution of products. These requirements also enable FDA to perform meaningful inspections.

Section 600.12 requires, among other things, that records be made concurrently with the performance of each step in the manufacture and distribution of products. These records must be retained for no less than 5 years after the records of manufacture have been completed or 6 months after the latest expiration date for the individual product, whichever represents a later date. In addition, under § 600.12, manufacturers must maintain records relating to the sterilization of equipment and supplies, animal necropsy records, and records in cases of divided manufacturing responsibility with respect to a product.

Under § 600.12(b)(2), manufacturers are also required to maintain complete records pertaining to the recall from distribution of any product. Furthermore, 21 CFR 610.18(b) requires, in part, that the results of all periodic tests for verification of cultures and determination of freedom from extraneous organisms be recorded and retained. The recordkeeping requirements for 21 CFR 610.12(g), 610.13(a)(2), 610.18(d), 680.2(f) and 680.3(f) are approved under OMB control number 0910–0139.

Respondents to this collection of information include manufacturers of biological products (including blood and blood components) and any person whose name appears on the label of a licensed biological product. In table 1, the number of respondents is based on the estimated number of manufacturers that are subject to those regulations or that submitted the required information to the Center for Biologics Evaluation and Research and the Center for Drugs Evaluation and Research, FDA, in fiscal year (FY) 2019. Based on information obtained from the FDA's database system, there were 103 manufacturers of biological products. This number excludes those manufacturers who produce Whole Blood, components of Whole Blood, or in-vitro diagnostic licensed products, because of the exemption under § 600.80(m).

The total annual responses are based on the number of submissions received by FDA in FY 2019. There were an estimated 169,334 15-day Alert reports, 184,265 periodic reports, and 789 lot distribution reports submitted to FDA. The number of 15-day Alert reports for postmarketing studies under § 600.80(e) is included in the total number of 15-day Alert reports. FDA received 63 requests from 40 manufacturers for waivers under § 600.90 (including §§ 600.80(h)(2) and 600.81(b)(2)), of which 61 were granted. The hours per response are based on FDA experience. The burden hours required to complete the MedWatch Form (Form FDA 3500A) for § 600.80(c)(1), (e), and (f) are reported under OMB control number 0910–0291.

In the **Federal Register** of September 1, 2020 (85 FR 54385), we published a 60-day notice requesting public comment on the proposed collection of information. One comment was received but was not responsive to the information collection topics solicited.

We estimate the burden of the collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
600.80(c)(1), 600.80(d), 600.80(e); postmarketing 15-day Alert reports	103	1,644.02	169,334	1	169,334
600.82; notification of discontinuance or interruption in manufacturing	21	1.67	35	2	70
600.80(c)(2) periodic adverse experience reports (FAERS)	103	1,788.98	184,265	28	5,159,420
600.81; distribution reports	117	6.744	789	1	789
600.80(h)(2), 600.81(b)(2), 600.90; waiver requests	40	1.575	63	1	63
Total					5,329,676

[1] There are no capital costs or operating and maintenance costs associated with the information collection.

In table 2, the number of respondents is based on the number of manufacturers subject to those regulations. Based on information obtained from FDA's database system, there were 212 licensed manufacturers of biological products in FY 2019. However, the number of recordkeepers listed for § 600.12(a) through (e), excluding (b)(2), is estimated to be 109. This number excludes manufacturers of blood and blood components because their burden hours for recordkeeping have been reported under § 606.160 in OMB control number 0910–0116. The total annual records is based on the annual average of lots released in FY 2019 (6,670), number of recalls made (735), and total number of adverse experience reports received (305,951) in FY 2019. The hours per record are based on FDA experience.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper (in hours)	Total hours
600.12; [2] maintenance of records	109	61.19	6,670	32	213,440
600.12(b)(2); recall records	212	3.467	735	24	17,640
600.80(c)(1) and 600.80(k); FAERS records	103	3,433	353,599	1	353,599

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]—Continued

21 CFR section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper (in hours)	Total hours
Total					584,679

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] The recordkeeping requirements in § 610.18(b) are included in the estimate for § 600.12.

The burden for this information collection has changed since the last OMB approval. The reporting and recordkeeping burden has increased mostly due to an increase in the number of FAERS reports submitted to FDA and the associated recordkeeping with these reports.

Dated: February 16, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–03541 Filed 2–22–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–D–2016]

Policy for Testing of Alcohol (Ethanol) and Isopropyl Alcohol for Methanol, Including During the Public Health Emergency (COVID–19); Guidance for Industry; 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 a final guidance for industry entitled ''Policy for Testing of Alcohol (Ethanol) and Isopropyl Alcohol for Methanol, Including During the Public Health Emergency (COVID–19).'' This guidance is intended to alert pharmaceutical manufacturers and pharmacists in State-licensed pharmacies or Federal facilities who engage in drug compounding to the potential public health hazard of alcohol (ethyl alcohol or ethanol) or isopropyl alcohol contaminated with or substituted with methanol. FDA is aware of reports of fatal methanol poisoning of consumers who ingested alcohol-based hand sanitizers that were manufactured with methanol or methanol-contaminated ethanol and is concerned that other drug products containing ethanol or isopropyl alcohol (pharmaceutical alcohol), which are widely used active ingredients in a variety of drug products, could be similarly vulnerable to methanol contamination. As the COVID–19 pandemic has increased the demand for hand sanitizer products, the demand for pharmaceutical alcohol as the active ingredient of those products has also increased. The guidance outlines a policy intended to help pharmaceutical manufacturers and pharmacists in State-licensed pharmacies or Federal facilities who engage in drug compounding avoid the use of pharmaceutical alcohol that is contaminated with or substituted with methanol in drug products. Given the public health emergency presented by coronavirus disease 2019 (COVID–19), this guidance document is being implemented without prior public comment because FDA has determined that prior public participation is not feasible or appropriate, but it remains subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidance is published in the **Federal Register** on February 23, 2021. The guidance document is immediately in effect, but it remains subject to comment in accordance with the Agency's good guidance practices.

ADDRESSES: You may submit either electronic or written comments on Agency guidances 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–2020–D–2016 for ''Policy for Testing of Alcohol (Ethanol) and Isopropyl Alcohol for Methanol, Including During the Public Health Emergency (COVID–19).'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on

https://www.regulations.gov. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; 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 requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Francis Godwin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4342, Silver Spring, MD 20993–0002, 301–796–5362; 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; or Julie Bailey, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0700.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Policy for Testing of Alcohol (Ethanol) and Isopropyl Alcohol for Methanol, Including During the Public Health Emergency (COVID–19).'' This guidance is intended to alert pharmaceutical manufacturers [1] and pharmacists in State-licensed pharmacies or Federal facilities who engage in compounding to the potential public health hazard of alcohol (ethyl alcohol or ethanol) or isopropyl alcohol (collectively ''pharmaceutical alcohol'' [2]) contaminated with or substituted with methanol. FDA is aware of reports of fatal methanol poisoning of consumers who ingested alcohol-based hand sanitizers that were manufactured with methanol or methanol-contaminated ethanol and is concerned that other drug products containing pharmaceutical alcohol, which are widely used active ingredients in a variety of drug products, could be similarly vulnerable to methanol contamination. As the COVID–19 pandemic has increased the demand for hand sanitizer products, the demand for pharmaceutical alcohol as the active ingredient of those products has also increased.

The guidance outlines a policy intended to help pharmaceutical manufacturers and pharmacists in State-licensed pharmacies or Federal facilities who engage in compounding avoid the use of pharmaceutical alcohol that is contaminated with or substituted with methanol in drug products. The policy outlined in the guidance includes, but is not limited to: (1) Performing a specific identity test that includes a limit test for methanol on each container within each shipment of each lot of pharmaceutical alcohol before the component is used in the manufacture or preparation of drug products; (2) knowing the entities in pharmaceutical manufacturers' supply chain for pharmaceutical alcohol (*i.e.,* knowing the identities and appropriately qualifying the manufacturer of the pharmaceutical alcohol and any subsequent distributor(s)); (3) ensuring that all personnel in pharmaceutical manufacturing facilities (especially personnel directly responsible for receipt, testing, and release of pharmaceutical alcohol) are made aware of the importance of proper testing and the potential hazards if the testing is not done; and (4) establishing finished product test methods to ensure that when testing for ethanol or isopropyl alcohol content (assay), the method also distinguishes between the active ingredient and methanol. The policy outlined in this guidance applies to pharmaceutical alcohols used as an active or inactive ingredient in a drug.

In light of the public health emergency related to COVID–19 declared by the Secretary of the Department of Health and Human Services (HHS), FDA has determined that prior public participation for this guidance is not feasible or appropriate and is issuing this guidance without prior public comment (see section 701(h)(1)(C)(i) of the FD&C Act (21 U.S.C. 371(h)(1)(C)(i)) and 21 CFR 10.115(g)(2)). This guidance document is being implemented immediately, but it remains subject to comment in accordance with the Agency's good guidance practices. FDA will review comments, and the guidance will be updated accordingly.

This guidance is intended to remain in effect for the duration of the public health emergency related to COVID–19 declared by HHS, including any renewals made by the Secretary in accordance with section 319(a)(2) of the Public Health Service Act (42 U.S.C. 247d(a)(2)). However, the recommendations and processes described in the guidance are expected to assist the Agency more broadly in its efforts to ensure that pharmaceutical alcohol that is contaminated with or substituted with methanol is not used in drug products beyond the termination of the COVID–19 public health emergency and reflect the Agency's current thinking on this issue. Therefore, within 60 days following the termination of the public health emergency, FDA intends to revise and replace this guidance with any appropriate changes based on comments received on this guidance and the Agency's experience with implementation.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Policy for Testing of Alcohol (Ethanol) and Isopropyl Alcohol for Methanol, Including During the Public Health Emergency (COVID–19).'' 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.

[1] References to ''manufacturers'' includes registered outsourcing facilities, repackers, relabellers, and suppliers of alcohol.

[2] For the purposes of this guidance, we use the term *pharmaceutical alcohol* to mean either ethanol (ethyl alcohol) or isopropyl alcohol (2-propanol). Both are used as an active ingredient in alcohol-based hand sanitizers and may be used in other drug products as an active or inactive ingredient.

II. 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 21 CFR part 314 have been approved under OMB control number 0910–0001; the collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338; and the collections of information in 21 CFR parts 210 and 211 have been approved under OMB control number 0910–0139.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics, https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders,* or *https://www.regulations.gov.*

Dated: February 16, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–03548 Filed 2–22–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–2635]

Potential Approach for Defining Durations of Use for Medically Important Antimicrobial Drugs Intended for Use In or On Feed: A Concept Paper; Request for Comments; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA, we, or Agency) is extending the comment period for the notice that appeared in the **Federal Register** of January 11, 2021. In that notice, FDA requested comments regarding a document entitled ''Potential Approach for Defining Durations of Use for Medically Important Antimicrobial Drugs Intended for Use In or On Feed: A Concept Paper.'' The Agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period announced in the notice published January 11, 2021 (86 FR 1979). Submit either electronic or written comments by June 11, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 11, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 11, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

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–2016–D–2635 for ''Potential Approach for Defining Durations of Use for Medically Important Antimicrobial Drugs Intended for Use In or On Feed: A Concept Paper.'' 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.

FOR FURTHER INFORMATION CONTACT: John Mussman, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0589, *john.mussman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 11, 2021, FDA published a notice of availability of a document entitled ''Potential Approach for Defining Durations of Use for Medically Important Antimicrobial Drugs Intended for Use In or On Feed: A Concept Paper'' with a 90-day comment period.

Interested persons were originally given until April 12, 2021, to comment on the concept paper. The Agency has received requests to allow interested persons additional time to comment. The requests conveyed concern that the current 90-day comment period does not allow sufficient time to develop a comprehensive response. We have concluded that it is reasonable to extend the comment period for 60 days. The Agency believes that this extension allows adequate time for interested persons to submit comments.

Dated: February 16, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–03532 Filed 2–22–21; 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 January 1, 2021, through January 31, 2021. 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.

Diana Espinosa,

Acting Administrator.

List of Petitions Filed

1. Sheri Esters, Coeur d'Alene, Idaho, Court of Federal Claims No: 21–0001V
2. Jacob Schriner, Wellesley Hills, California, Court of Federal Claims No: 21–0002V
3. Jade Bunnell, Virginia Beach, Virginia, Court of Federal Claims No: 21–0003V

4. Judith Resweber, Baton Rouge, Louisiana, Court of Federal Claims No: 21–0004V
5. Becky Cary-Hill, Duluth, Minnesota, Court of Federal Claims No: 21–0005V
6. Helene Tark, New York, New York, Court of Federal Claims No: 21–0006V
7. Katharine Wick, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0007V
8. John Black, Denison, Texas, Court of Federal Claims No: 21–0009V
9. Darcy Cyr, Albany, New York, Court of Federal Claims No: 21–0012V
10. Maria Nino, Dallas, Texas, Court of Federal Claims No: 21–0013V
11. Renee Stidd, Nebraska City, Nebraska, Court of Federal Claims No: 21–0014V
12. Robert Miller, Lafayette, Georgia, Court of Federal Claims No: 21–0015V
13. Jessica McKnight, Aurora, Colorado, Court of Federal Claims No: 21–0016V
14. Mirna LaTorre, Goshen, New York, Court of Federal Claims No: 21–0017V
15. Cristina Houy, Brooklyn, New York, Court of Federal Claims No: 21–0018V
16. Jeanne Andrews, Charlton, Massachusetts, Court of Federal Claims No: 21–0019V
17. Elisa Advani, Morrisville, Pennsylvania, Court of Federal Claims No: 21–0020V
18. Karen Bean, Fullerton, California, Court of Federal Claims No: 21–0021V
19. Mitchell Frye, Eugene, Oregon, Court of Federal Claims No: 21–0022V
20. Mary Cheatwood, Anniston, Alabama, Court of Federal Claims No: 21–0023V
21. Michael Garrison, Forestdale, Massachusetts, Court of Federal Claims No: 21–0024V
22. Rosalind Cummings, Media, Pennsylvania, Court of Federal Claims No: 21–0025V
23. William Harry, Cherry Hill, New Jersey, Court of Federal Claims No: 21–0026V
24. Candice Killpack, Layton, Utah, Court of Federal Claims No: 21–0027V
25. Sanaa El-Tayib, West Caldwell, New Jersey, Court of Federal Claims No: 21–0028V
26. Candice Lombardo, New Haven, Connecticut, Court of Federal Claims No: 21–0029V
27. Shawn McKenna, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0030V
28. Michelle Mussehl, Madison, Wisconsin, Court of Federal Claims No: 21–0031V
29. Bruce Robinson, Radnor, Pennsylvania, Court of Federal Claims No: 21–0032V
30. Kimberly Schauffler, Yorktown Heights, New York, Court of Federal Claims No: 21–0033V
31. Timothy Dilweg, Boston, Massachusetts, Court of Federal Claims No: 21–0034V
32. Tomecca Cephus, Boston, Massachusetts, Court of Federal Claims No: 21–0035V
33. Sonal Patel, Dorchester, Massachusetts, Court of Federal Claims No: 21–0036V
34. Iane Montagnese, Boston, Massachusetts, Court of Federal Claims No: 21–0037V
35. Kristie Rinier, Cape May, New Jersey, Court of Federal Claims No: 21–0038V
36. Angel Squires, Boston, Massachusetts, Court of Federal Claims No: 21–0039V
37. Krystal Baucom on behalf of A. M., Concord, North Carolina, Court of Federal Claims No: 21–0040V
38. Lidija Zekanovic, Mt. Orab, Ohio, Court of Federal Claims No: 21–0041V
39. Stacey Welch on behalf of J. W., New Orleans, Louisiana, Court of Federal Claims No: 21–0042V
40. Gina Burgese, Springfield, Pennsylvania, Court of Federal Claims No: 21–0043V
41. Donna Valdez, Baytown, Texas, Court of Federal Claims No: 21–0044V
42. Terry L. Hansler Pont, Grants Pass, Oregon, Court of Federal Claims No: 21–0045V
43. Melissa Ferguson, Dayton, Ohio, Court of Federal Claims No: 21–0046V
44. Marnie Schmaltz, St. Petersburg, Florida, Court of Federal Claims No: 21–0047V
45. Yvette Alexander, Sweetwater, Tennessee, Court of Federal Claims No: 21–0048V
46. Raymond Cronin, Romulus, Michigan, Court of Federal Claims No: 21–0049V
47. Patricia Howard, Boston, Massachusetts, Court of Federal Claims No: 21–0050V
48. Jane Brennom, Wimauma, Florida, Court of Federal Claims No: 21–0051V
49. Randi Wender, Boston, Massachusetts, Court of Federal Claims No: 21–0052V
50. Cassie Williams, Mesa, Arizona, Court of Federal Claims No: 21–0053V
51. Andrea H. Olson, Osakis, Minnesota, Court of Federal Claims No: 21–0054V
52. Ellen Rodriguez, Skillman, New Jersey, Court of Federal Claims No: 21–0055V
53. Alicia Edwards, Sand Springs, Oklahoma, Court of Federal Claims No: 21–0056V
54. Graham Jewell, Charlotte, North Carolina, Court of Federal Claims No: 21–0057V
55. Norman Smith, Boston, Massachusetts, Court of Federal Claims No: 21–0058V
56. Brooke Biancucci, Binghamton, New York, Court of Federal Claims No: 21–0059V
57. Perry Walters, Houston, Texas, Court of Federal Claims No: 21–0060V
58. Geoffrey Miller, Boston, Massachusetts, Court of Federal Claims No: 21–0061V
59. Angelicque Taylor, Dresher, Pennsylvania, Court of Federal Claims No: 21–0062V
60. Lynette Smith, Seattle, Washington, Court of Federal Claims No: 21–0063V
61. Timothy Allen, Dresher, Pennsylvania, Court of Federal Claims No: 21–0064V
62. Jonathan Turnquest, Des Plaines, Illinois, Court of Federal Claims No: 21–0065V
63. Amy Schwalm, Schaumburg, Illinois, Court of Federal Claims No: 21–0066V
64. Nadine Campbell, Dresher, Pennsylvania, Court of Federal Claims No: 21–0067V
65. Mary Ross, San Antonio, Texas, Court of Federal Claims No: 21–0068V
66. Ashley Frei, Montoursville, Pennsylvania, Court of Federal Claims No: 21–0069V
67. Patricia Richardson, Tampa, Florida, Court of Federal Claims No: 21–0070V
68. Elsie McKay, Albany, Oregon, Court of Federal Claims No: 21–0071V
69. Jane McGraw, Orlando, Florida, Court of Federal Claims No: 21–0072V
70. Holly Adair, Austin, Texas, Court of Federal Claims No: 21–0073V
71. Marjorie Ganthier, New York, New York, Court of Federal Claims No: 21–0074V
72. Zakaria Asia, Austin, Texas, Court of Federal Claims No: 21–0075V
73. Heather Phillips, Tamaqua, Pennsylvania, Court of Federal Claims No: 21–0076V
74. Allison Axon, Dallas, Texas, Court of Federal Claims No: 21–0077V
75. Angela Baldocchi, Tuscaloosa, Alabama, Court of Federal Claims No: 21–0078V
76. Rebecca Knight, Petersburg, Alaska, Court of Federal Claims No: 21–0080V
77. Roland Barr, Stevenson, Washington, Court of Federal Claims No: 21–0081V
78. Kim Blessed, Raleigh, North Carolina, Court of Federal Claims No: 21–0082V
79. Lisa Brown, Bryan, Texas, Court of Federal Claims No: 21–0083V
80. Justin Burroughs, Port Orange, Florida, Court of Federal Claims No: 21–0084V
81. Vickie Calmese, Florissant, Missouri, Court of Federal Claims No: 21–0085V
82. Kimberly Cates, Raleigh, North Carolina, Court of Federal Claims No: 21–0086V
83. Terra Figueiredo, Pflugerville, Texas, Court of Federal Claims No: 21–0088V
84. Donna Arrogante, Dresher, Pennsylvania, Court of Federal Claims No: 21–0089V
85. Julie Hart, Plano, Texas, Court of Federal Claims No: 21–0090V
86. Matther Huber, Exton, Pennsylvania, Court of Federal Claims No: 21–0091V
87. Debra Weiss-Otterpohl, Princeton, New Jersey, Court of Federal Claims No: 21–0092V
88. Graciela Johnson, Temple, Texas, Court of Federal Claims No: 21–0093V
89. Jeffrey Marvel, Carmel, Indiana, Court of Federal Claims No: 21–0094V
90. Karen Knight, Ennis, Texas, Court of Federal Claims No: 21–0095V
91. Kathryn Sitton, Newport Beach, California, Court of Federal Claims No: 21–0096V
92. Jean Kraemer, Clinton Township, Michigan, Court of Federal Claims No: 21–0097V
93. Beth Ruge, Carmel, Indiana, Court of Federal Claims No: 21–0098V
94. Mandy Gammons on behalf of H. T., Goodlettsville, Tennessee, Court of Federal Claims No: 21–0099V
95. Julie Trevis, Encino, California, Court of Federal Claims No: 21–0100V
96. Samuel Beyer, Lansing, Michigan, Court of Federal Claims No: 21–0101V
97. Patti Rae Graham, Scottsdale, Arizona, Court of Federal Claims No: 21–0102V
98. Hafin Meryk Painter, American Fork, Utah, Court of Federal Claims No: 21–0103V
99. Misty Nuzzo, Nottingham, Maryland, Court of Federal Claims No: 21–0104V
100. Michelle Laing, Mission Viejo, California, Court of Federal Claims No: 21–0105V
101. Jennifer Glover, Murrieta, California, Court of Federal Claims No: 21–0106V
102. Fanny Rivera, Reading, Pennsylvania, Court of Federal Claims No: 21–0107V
103. Michael Leach, Bensalem, Pennsylvania, Court of Federal Claims No: 21–0108V
104. Christopher Lasak, San Diego, California, Court of Federal Claims No: 21–0109V
105. Paul Lieberman, Punta Gorda, Florida, Court of Federal Claims No: 21–0110V
106. John Murphy, Livingston, Montana, Court of Federal Claims No: 21–0111V

107. Gabriel Marian, Seattle, Washington, Court of Federal Claims No: 21–0112V
108. Alexandra Boyd, Gloucester, Massachusetts, Court of Federal Claims No: 21–0113V
109. Kristin Morgan, Rockford, Illinois, Court of Federal Claims No: 21–0114V
110. Shirley Poke, Tifton, Georgia, Court of Federal Claims No: 21–0115V
111. Montrell Riley, Flint, Michigan, Court of Federal Claims No: 21–0116V
112. Abby Rodriguez, Santa Fe, New Mexico, Court of Federal Claims No: 21–0117V
113. Hong Taing, Alpharetta, Georgia, Court of Federal Claims No: 21–0118V
114. Angel Thompson, Wesley Chapel, North Carolina, Court of Federal Claims No: 21–0119V
115. Anya Wallach, New York, New York, Court of Federal Claims No: 21–0120V
116. Gayla Randolph, Canton, Georgia, Court of Federal Claims No: 21–0121V
117. John B. Caraway, Kent Island, Maryland, Court of Federal Claims No: 21–0123V
118. Scott Speller, Washington, District of Columbia, Court of Federal Claims No: 21–0124V
119. Julia Edwards, Mebourne, Florida, Court of Federal Claims No: 21–0125V
120. Timothy Yannacone, Valatie, New York, Court of Federal Claims No: 21–0126V
121. Alisha Bullock, Boston, Massachusetts, Court of Federal Claims No: 21–0127V
122. Nicole Lung, North Chicago, Illinois, Court of Federal Claims No: 21–0128V
123. Kristen Dixon, Woodruff, Wisconsin, Court of Federal Claims No: 21–0129V
124. Sandra Eskenazi, Aventura, Florida, Court of Federal Claims No: 21–0130V
125. Dyan LaBelle, Milwaukee, Wisconsin, Court of Federal Claims No: 21–0131V
126. Eleanor Arreola, Dresher, Pennsylvania, Court of Federal Claims No: 21–0132V
127. John I. DeVey, III, Rochester, New York, Court of Federal Claims No: 21–0133V
128. Leah Davis, Boston, Massachusetts, Court of Federal Claims No: 21–0134V
129. Francisco Salgado, Dresher, Pennsylvania, Court of Federal Claims No: 21–0135V
130. Catherine Sullivan, Boston, Massachusetts, Court of Federal Claims No: 21–0136V
131. George Heidrich, Dresher, Pennsylvania, Court of Federal Claims No: 21–0137V
132. Nichole Dorio, Cleveland, Ohio, Court of Federal Claims No: 21–0138V
133. Ross McCammon, Webster, Texas, Court of Federal Claims No: 21–0139V
134. Kathy Blackmon, Pensacola, Florida, Court of Federal Claims No: 21–0140V
135. Tane Turrell, Boston, Massachusetts, Court of Federal Claims No: 21–0141V
136. Emma Jones, Dresher, Pennsylvania, Court of Federal Claims No: 21–0142V
137. Beth Guest, Rochester Hills, Michigan, Court of Federal Claims No: 21–0143V
138. Pamela Tripp, Boston, Massachusetts, Court of Federal Claims No: 21–0144V
139. Daniel Swadis, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0145V
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141. Suzanne Bauman, Littleton, Colorado, Court of Federal Claims No: 21–0147V
142. Jennifer Nicole Brown, Tampa, Florida, Court of Federal Claims No: 21–0148V
143. Hyunji Beatrice, New York, New York, Court of Federal Claims No: 21–0149V
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145. Laura Turnquest, Des Plaines, Illinois, Court of Federal Claims No: 21–0151V
146. Stephanie Mitchell, Los Angeles, California, Court of Federal Claims No: 21–0152V
147. Stephanie Tompkins, Voorhees, New Jersey, Court of Federal Claims No: 21–0153V
148. Gertrude Brown, Woodbridge, Virginia, Court of Federal Claims No: 21–0155V
149. Craig Bauman, Marion, Illinois, Court of Federal Claims No: 21–0156V
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151. Monique Samayoa, Wilmington, North Carolina, Court of Federal Claims No: 21–0158V
152. Sharon Clayton, Victorville, California, Court of Federal Claims No: 21–0159V
153. Andrew Universal, Dresher, Pennsylvania, Court of Federal Claims No: 21–0160V
154. Baltazar Pedraza, Watsonville, California, Court of Federal Claims No: 21–0161V
155. Connie Glaholt, Overland Park, Kansas, Court of Federal Claims No: 21–0162V
156. Courtney Lane, Dresher, Pennsylvania, Court of Federal Claims No: 21–0163V
157. Tabitha Smith, Siloam Springs, Arkansas, Court of Federal Claims No: 21–0164V
158. Michael Berlin, Dresher, Pennsylvania, Court of Federal Claims No: 21–0165V
159. Harold Boling, Bel Air, Maryland, Court of Federal Claims No: 21–0166V
160. Sharon Brown, Summerville, South Carolina, Court of Federal Claims No: 21–0167V
161. Sheila Evans, Greensboro, North Carolina, Court of Federal Claims No: 21–0168V
162. Abraham Scott, Flowood, Mississippi, Court of Federal Claims No: 21–0169V
163. Noel Fie, Beverly Hills, California, Court of Federal Claims No: 21–0170V
164. Loralie Cioffi, Capitola, California, Court of Federal Claims No: 21–0171V
165. Fawn Edmondson, Las Vegas, Nevada, Court of Federal Claims No: 21–0172V
166. Kimberley Plachta, Waterford, Michigan, Court of Federal Claims No: 21–0173V
167. Janice Reeve, Everett, Washington, Court of Federal Claims No: 21–0174V
168. Kristi Kelley, Jackson, Mississippi, Court of Federal Claims No: 21–0175V
169. Karen Johnson, Burke, Virginia, Court of Federal Claims No: 21–0176V
170. Julia Shatlock, Atlanta, Georgia, Court of Federal Claims No: 21–0177V
171. Jacob Kovarskiy, Washington, District of Columbia, Court of Federal Claims No: 21–0178V
172. Donald Buford, Waupun, Wisconsin, Court of Federal Claims No: 21–0179V
173. Wyatt Regan, Washington, District of Columbia, Court of Federal Claims No: 21–0180V
174. Theresa Banks, Washington, District of Columbia, Court of Federal Claims No: 21–0181V
175. Celia Martinez, Las Vegas, Nevada, Court of Federal Claims No: 21–0182V
176. Rita Rekoff, Washington, District of Columbia, Court of Federal Claims No: 21–0183V
177. Nona Bobb, Washington, District of Columbia, Court of Federal Claims No: 21–0184V
178. Teresa Patterson, Albuquerque, New Mexico, Court of Federal Claims No: 21–0185V
179. Sophie Friedfeld-Gebaide, Dresher, Pennsylvania, Court of Federal Claims No: 21–0186V
180. Michelle Burkemper, Washington, District of Columbia, Court of Federal Claims No: 21–0187V
181. Vivian DiTomasso, Nashville, Tennessee, Court of Federal Claims No: 21–0188V
182. Patricia Groth, Washington, District of Columbia, Court of Federal Claims No: 21–0189V
183. Ronald Lorenz, Tucson, Arizona, Court of Federal Claims No: 21–0190V
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186. Richard Jones, Washington, District of Columbia, Court of Federal Claims No: 21–0193V
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190. John Clarke, Jr., Washington, District of Columbia, Court of Federal Claims No: 21–0197V
191. Karen Brown, Orchard Park, New York, Court of Federal Claims No: 21–0198V
192. Michelle Rorabaugh, Washington, District of Columbia, Court of Federal Claims No: 21–0199V
193. Jennifer Rivera, West Nyack, New York, Court of Federal Claims No: 21–0200V
194. Randolph Dennis, Washington, District of Columbia, Court of Federal Claims No: 21–0201V
195. Laurie Lara, Sonora, California, Court of Federal Claims No: 21–0202V
196. Kendra Sage, Washington, District of Columbia, Court of Federal Claims No: 21–0203V
197. Tammy Amorosso, Washington, District of Columbia, Court of Federal Claims No: 21–0204V
198. Amanda Salgado, Washington, District of Columbia, Court of Federal Claims No: 21–0205V
199. Danelle Bailey, Washington, District of Columbia, Court of Federal Claims No: 21–0206V
200. Amanda Grue, Washington, District of Columbia, Court of Federal Claims No: 21–0207V
201. Lisa Bates, Washington, District of Columbia, Court of Federal Claims No: 21–0208V

202. Brina Thurston, Dresher, Pennsylvania, Court of Federal Claims No: 21–0209V
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204. Robin Bernales, Washington, District of Columbia, Court of Federal Claims No: 21–0211V
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206. Margaret Nalwoga, Court of Federal Claims No: 21–0213V
207. Shari Kaui, Washington, District of Columbia, Court of Federal Claims No: 21–0214V
208. Sarah Crittenden, Washington, District of Columbia, Court of Federal Claims No: 21–0215V
209. Shirley Kurtinitis, Pittston, Pennsylvania, Court of Federal Claims No: 21–0216V
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212. Florent Dechard, Washington, District of Columbia, Court of Federal Claims No: 21–0219V
213. Theresa Langerud, Washington, District of Columbia, Court of Federal Claims No: 21–0220V
214. Odette DiPietro, Washington, District of Columbia, Court of Federal Claims No: 21–0221V
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216. Ronald Culberson, Montgomery, Alabama, Court of Federal Claims No: 21–0223V
217. Samantha Sny, Davison, Michigan, Court of Federal Claims No: 21–0224V
218. Barbara Muhling, Washington, District of Columbia, Court of Federal Claims No: 21–0225V
219. Kimberly K. Vogleman, Huntington, Indiana, Court of Federal Claims No: 21–0226V
220. Carter Schoenborn, Ansonia, Connecticut, Court of Federal Claims No: 21–0227V
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225. Benjamin Egbule, Washington, District of Columbia, Court of Federal Claims No: 21–0232V
226. Nadine Cory, Coral Springs, Florida, Court of Federal Claims No: 21–0233V
227. Brenda Nix, Washington, District of Columbia, Court of Federal Claims No: 21–0234V
228. Kayla Erosa, Washington, District of Columbia, Court of Federal Claims No: 21–0235V
229. Miriam Olinger, Washington, District of Columbia, Court of Federal Claims No: 21–0236V
230. Brita Reed, Washington, District of Columbia, Court of Federal Claims No: 21–0237V
231. Leslie G. Bromberg, Phoenix, Arizona, Court of Federal Claims No: 21–0238V
232. Caroline Faure, Washington, District of Columbia, Court of Federal Claims No: 21–0239V
233. Debra Rhoades, Richmond, Indiana, Court of Federal Claims No: 21–0240V
234. Janice Lent, Washington, District of Columbia, Court of Federal Claims No: 21–0241V
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237. Sarah Beranek, Cedar Rapids, Iowa, Court of Federal Claims No: 21–0244V
238. Ellen Fulcher, Washington, District of Columbia, Court of Federal Claims No: 21–0245V
239. Karen Lindsey, Boston, Massachusetts, Court of Federal Claims No: 21–0246V
240. Julie Russell, Washington, District of Columbia, Court of Federal Claims No: 21–0247V
241. Nathan Mostow, Fort Lee, New Jersey, Court of Federal Claims No: 21–0248V
242. Charles Gigantino, Washington, District of Columbia, Court of Federal Claims No: 21–0249V
243. Heidi Scheucher, Washington, District of Columbia, Court of Federal Claims No: 21–0250V
244. Maureen Theobald, Thousand Oaks, California, Court of Federal Claims No: 21–0251V
245. Norys Fernandez on behalf of Salvatore Fernandez, Yardley, Pennsylvania, Court of Federal Claims No: 21–0252V
246. Gretchen Guttridge, Washington, District of Columbia, Court of Federal Claims No: 21–0253V
247. Alexandra Simels, Washington, District of Columbia, Court of Federal Claims No: 21–0254V
248. Amber Hagkull, Washington, District of Columbia, Court of Federal Claims No: 21–0255V
249. Jennifer Sohmer, Charlotte, North Carolina, Court of Federal Claims No: 21–0256V
250. Harry Argeris, Tacoma, Washington, Court of Federal Claims No: 21–0257V
251. Sandra Johns, Chino Valley, Arizona, Court of Federal Claims No: 21–0258V
252. Kuldip Sohpal, Washington, District of Columbia, Court of Federal Claims No: 21–0259V
253. Thomas Harkins, Washington, District of Columbia, Court of Federal Claims No: 21–0260V
254. Helena McGaughey, McCracken, Kansas, Court of Federal Claims No: 21–0261V
255. Guadalupe Solis, Washington, District of Columbia, Court of Federal Claims No: 21–0262V
256. Meagan O'Neill, Charleston, South Carolina, Court of Federal Claims No: 21–0263V
257. Christina Terrell, Dresher, Pennsylvania, Court of Federal Claims No: 21–0264V
258. Marie Stark, South Bend, Indiana, Court of Federal Claims No: 21–0265V
259. Anthony Harrison, Washington, District of Columbia, Court of Federal Claims No: 21–0266V
260. Evelyn Valdivieso, Malvern, Pennsylvania, Court of Federal Claims No: 21–0267V
261. Scott Sterland, Washington, District of Columbia, Court of Federal Claims No: 21–0268V
262. Lisa Hazard, Washington, District of Columbia, Court of Federal Claims No: 21–0269V
263. Joanne Carol Stange, Watkinsville, Georgia, Court of Federal Claims No: 21–0270V
264. Stephanie Stites, Washington, District of Columbia, Court of Federal Claims No: 21–0271V
265. Kimberly Heesch, Washington, District of Columbia, Court of Federal Claims No: 21–0272V
266. Kiandra Stroud, Washington, District of Columbia, Court of Federal Claims No: 21–0273V
267. Barbara Marilyn John, Queens, New York, Court of Federal Claims No: 21–0274V
268. Antonio Carabillo, Dumont, New Jersey, Court of Federal Claims No: 21–0275V
269. Alexander Terry, Atlanta, Georgia, Court of Federal Claims No: 21–0276V
270. Cortez Toliver, Washington, District of Columbia, Court of Federal Claims No: 21–0277V
271. Kelly Walker, Watertown, New York, Court of Federal Claims No: 21–0278V
272. Luz Villalba, Washington, District of Columbia, Court of Federal Claims No: 21–0279V
273. Danielle Halaz, Dresher, Pennsylvania, Court of Federal Claims No: 21–0280V
274. Melissa Hoppe, Washington, District of Columbia, Court of Federal Claims No: 21–0281V
275. Christopher Webster, Washington, District of Columbia, Court of Federal Claims No: 21–0282V
276. Xin Jin, Washington, District of Columbia, Court of Federal Claims No: 21–0283V
277. Boonie Wells, Washington, District of Columbia, Court of Federal Claims No: 21–0284V
278. Roxann Wellington, Washington, District of Columbia, Court of Federal Claims No: 21–0285V
279. Eunice Kim, Washington, District of Columbia, Court of Federal Claims No: 21–0286V
280. Taylore Wilson, Washington, District of Columbia, Court of Federal Claims No: 21–0287V
281. Catherine Wroczynski, Washington, District of Columbia, Court of Federal Claims No: 21–0288V
282. Carolyn Kimmick, Washington, District of Columbia, Court of Federal Claims No: 21–0289V
283. Nathan Yost, Austin, Texas, Court of Federal Claims No: 21–0290V
284. Stephanie Zaremba, Washington, District of Columbia, Court of Federal Claims No: 21–0291V

285. Leah King, Washington, District of Columbia, Court of Federal Claims No: 21–0292V
286. Hailey Lau, Washington, District of Columbia, Court of Federal Claims No: 21–0293V
287. Ashok Mahbubani, Washington, District of Columbia, Court of Federal Claims No: 21–0294V
288. Debra McCarthy, Washington, District of Columbia, Court of Federal Claims No: 21–0295V
289. Kenade Achelus-Knox, Tallahassee, Florida, Court of Federal Claims No: 21–0296V
290. Floyd Meyer, Washington, District of Columbia, Court of Federal Claims No: 21–0297V
291. Dennis Marsh, Dublin, California, Court of Federal Claims No: 21–0298V
292. Sarah Anderson, Washington, District of Columbia, Court of Federal Claims No: 21–0299V
293. Maryam Ahmadi, Newbury Park, California, Court of Federal Claims No: 21–0300V
294. Jamie Lynn Montoya Cook, Washington, District of Columbia, Court of Federal Claims No: 21–0301V
295. Darrick Bennett, Washington, District of Columbia, Court of Federal Claims No: 21–0302V
296. Luevenia Bluefort, Washington, District of Columbia, Court of Federal Claims No: 21–0303V
297. Maurica Moore, Washington, District of Columbia, Court of Federal Claims No: 21–0304V
298. Louis Fucito, Newport Coast, California, Court of Federal Claims No: 21–0305V
299. Sherry Carroll, Washington, District of Columbia, Court of Federal Claims No: 21–0306V
300. Stephen Cote, Washington, District of Columbia, Court of Federal Claims No: 21–0307V
301. Gwyneth Rampton, Washington, District of Columbia, Court of Federal Claims No: 21–0308V
302. Sally Creedon, Cary, North Carolina, Court of Federal Claims No: 21–0309V
303. Michele D'Agostino, Washington, District of Columbia, Court of Federal Claims No: 21–0310V
304. Myra Diggs, Washington, District of Columbia, Court of Federal Claims No: 21–0311V
305. Layne du Vivier, Washington, District of Columbia, Court of Federal Claims No: 21–0312V
306. Sierra Erb, Washington, District of Columbia, Court of Federal Claims No: 21–0313V
307. Tracey Ervin-Spencer, Seattle, Washington, Court of Federal Claims No: 21–0314V
308. Julia Foster, Washington, District of Columbia, Court of Federal Claims No: 21–0315V
309. Dilean Frani, Washington, District of Columbia, Court of Federal Claims No: 21–0316V
310. Suzanne Zacharski on behalf of Diane Lemanski, Troy, Michigan, Court of Federal Claims No: 21–0317V
311. Jason Frank, Washington, District of Columbia, Court of Federal Claims No: 21–0318V
312. Amanda Gefter, Boston, Massachusetts, Court of Federal Claims No: 21–0319V
313. Sharon Wall, Williamsburg, Virginia, Court of Federal Claims No: 21–0320V
314. Larry Goff, Washington, District of Columbia, Court of Federal Claims No: 21–0321V
315. Moira Croteau, Keene, New Hampshire, Court of Federal Claims No: 21–0322V
316. Edward Bianco, Washington, District of Columbia, Court of Federal Claims No: 21–0323V
317. Celina Peterson, Seattle, Washington, Court of Federal Claims No: 21–0324V
318. Sunshine Borawski, Washington, District of Columbia, Court of Federal Claims No: 21–0325V
319. Cletus Emeziem, Washington, District of Columbia, Court of Federal Claims No: 21–0326V
320. Richard Sadler, Ottawa, Kansas, Court of Federal Claims No: 21–0327V
321. Mark Grayson, Washington, District of Columbia, Court of Federal Claims No: 21–0328V
322. Mohamed Hendawi, Washington, District of Columbia, Court of Federal Claims No: 21–0329V
323. Kelly Mabra, Boston, Massachusetts, Court of Federal Claims No: 21–0330V
324. Jana Hesker, Washington, District of Columbia, Court of Federal Claims No: 21–0331V
325. Leslie Hendricks, Boston, Massachusetts, Court of Federal Claims No: 21–0332V
326. Timothy Phipps, West Henrietta, New York, Court of Federal Claims No: 21–0333V
327. Robert Lenhart, Phoenix, Arizona, Court of Federal Claims No: 21–0334V
328. Samantha Meadows, Washington, District of Columbia, Court of Federal Claims No: 21–0335V
329. Yacoub Innabi, Phoenix, Arizona, Court of Federal Claims No: 21–0336V
330. Robert Murphy, Washington, District of Columbia, Court of Federal Claims No: 21–0337V
331. Christopher Nguyen, Washington, District of Columbia, Court of Federal Claims No: 21–0338V
332. Sarah Parolski, Washington, District of Columbia, Court of Federal Claims No: 21–0339V
333. Heidys Antigua, Bronx, New York, Court of Federal Claims No: 21–0340V
334. Donna Fagan, Dresher, Pennsylvania, Court of Federal Claims No: 21–0341V
335. Donna Pitts, Washington, District of Columbia, Court of Federal Claims No: 21–0342V
336. Michelle Overton, San Marcos, California, Court of Federal Claims No: 21–0343V
337. Jessica Ramirez, Washington, District of Columbia, Court of Federal Claims No: 21–0344V
338. Teresa Lee, Salem, Ohio, Court of Federal Claims No: 21–0345V
339. Cassandra Hamilton, Chicago, Illinois, Court of Federal Claims No: 21–0346V
340. Anita Rogers, Washington, District of Columbia, Court of Federal Claims No: 21–0347V
341. Deborah Shears, Lathrop, California, Court of Federal Claims No: 21–0348V
342. Andrea Scanlan, Manhattan, New York, Court of Federal Claims No: 21–0349V
343. Terri Samuels, Washington, District of Columbia, Court of Federal Claims No: 21–0350V
344. Brandon Pozil, Greensboro, North Carolina, Court of Federal Claims No: 21–0351V
345. Renee Bettencourt, Morgan Hill, California, Court of Federal Claims No: 21–0352V
346. Thomas Sarna, Washington, District of Columbia, Court of Federal Claims No: 21–0353V
347. Steven Scantland, Washington, District of Columbia, Court of Federal Claims No: 21–0354V
348. Stamatia Haritoudis, Beverly Hills, California, Court of Federal Claims No: 21–0355V
349. Donna Schoenberger, Washington, District of Columbia, Court of Federal Claims No: 21–0356V
350. Ann Margaret Venditti, Washington, District of Columbia, Court of Federal Claims No: 21–0357V
351. Lucio Villanueva, Washington, District of Columbia, Court of Federal Claims No: 21–0358V
352. Erik Vangsness, Dallas, Texas, Court of Federal Claims No: 21–0359V
353. Stephanie Stanton, Dallas, Texas, Court of Federal Claims No: 21–0360V
354. Timothy Wade, Washington, District of Columbia, Court of Federal Claims No: 21–0361V
355. Sharon Seales-Reid, Beverly Hills, California, Court of Federal Claims No: 21–0362V
356. Joy Bent, Richmond, Virginia, Court of Federal Claims No: 21–0363V
357. Edward Louis Ambiel, Jr., Beverly Hills, California, Court of Federal Claims No: 21–0364V
358. Grace Wang, Washington, District of Columbia, Court of Federal Claims No: 21–0365V
359. Marvin Walker, Beverly Hills, California, Court of Federal Claims No: 21–0366V
360. Robert Werbicki, Phoenix, Arizona, Court of Federal Claims No: 21–0367V
361. Thomas Welsh, Washington, District of Columbia, Court of Federal Claims No: 21–0368V
362. Brittany White, Washington, District of Columbia, Court of Federal Claims No: 21–0369V
363. Shannon Yodowitz, Washington, District of Columbia, Court of Federal Claims No: 21–0370V
364. Sophie Poore, Greer, South Carolina, Court of Federal Claims No: 21–0371V
365. Donnie Puckett, High Point, North Carolina, Court of Federal Claims No: 21–0372V
366. Kimberly Robichaux, Washington, District of Columbia, Court of Federal Claims No: 21–0373V
367. Mary Mann, Frederick, Maryland, Court of Federal Claims No: 21–0374V
368. Bonnie Graczyk, Seattle, Washington, Court of Federal Claims No: 21–0376V

369. Jason Povey, Louisville, Kentucky, Court of Federal Claims No: 21–0377V
370. Yvonne Romo, Boston, Massachusetts, Court of Federal Claims No: 21–0378V
371. Lori Carter, Richmond, Virginia, Court of Federal Claims No: 21–0379V
372. Ma Lourdes Aspeita, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0380V
373. Debrah Atkins, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0381V
374. Robin McKinnon, Richmond, Virginia, Court of Federal Claims No: 21–0382V
375. Jennifer Hudson, Washington, District of Columbia, Court of Federal Claims No: 21–0383V
376. Derek Blevins, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0385V
377. Karen Brown, Woodbridge, Illinois, Court of Federal Claims No: 21–0386V
378. Thomas Anderson, Boston, Massachusetts, Court of Federal Claims No: 21–0387V
379. Cynthia Burkhead, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0388V
380. Paula Cavalier, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0389V
381. Roger Conley, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0390V
382. Antonio Lorenzo, Washington, District of Columbia, Court of Federal Claims No: 21–0391V
383. Kelly Gibson, Dyer, Indiana, Court of Federal Claims No: 21–0392V
384. Diane Michelle, Chicago, Illinois, Court of Federal Claims No: 21–0393V
385. Evelyn Valdez, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0394V
386. Kelly Gibson, Dyer, Indiana, Court of Federal Claims No: 21–0395V
387. Will Gallaway, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0396V
388. Gloria Guerrero, Blythe, California, Court of Federal Claims No: 21–0397V
389. Donna Horn, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0398V
390. Debbie Hutchins, Los Angeles, California, Court of Federal Claims No: 21–0399V
391. Elizabeth Covey, Portage, Michigan, Court of Federal Claims No: 21–0400V
392. Avinash Idnani, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0401V
393. Felix Kersting, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0402V
394. Jean M. Nunes, Warwick, Rhode Island, Court of Federal Claims No: 21–0403V
395. Lora Loethen, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0404V
396. Joseph Mattachione, Dresher, Pennsylvania, Court of Federal Claims No: 21–0405V
397. Charles Meyers, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0406V
398. Angela Milam, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0407V
399. Charles Olson, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0408V
400. Patricia Smith, Dallas, Pennsylvania, Court of Federal Claims No: 21–0409V
401. Lovie Lucas, Dresher, Pennsylvania, Court of Federal Claims No: 21–0410V
402. Alyssa Schutte, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0411V
403. Cecil Sharpe, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0412V
404. William Squicciarino, Palm Coast, Florida, Court of Federal Claims No: 21–0413V
405. Alexis Teague, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0414V
406. Christina Tibbs, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0415V
407. Peter Louvaris, Dresher, Pennsylvania, Court of Federal Claims No: 21–0416V
408. Peter Gabriel, Dresher, Pennsylvania, Court of Federal Claims No: 21–0417V
409. Valerian Kostka, Dresher, Pennsylvania, Court of Federal Claims No: 21–0418V
410. Terry M. Wise, Concord, North Carolina, Court of Federal Claims No: 21–0419V
411. Sheryl Nussbaum, Dresher, Pennsylvania, Court of Federal Claims No: 21–0420V
412. Helen Clark, Dresher, Pennsylvania, Court of Federal Claims No: 21–0421V
413. Heidi Langman, Dresher, Pennsylvania, Court of Federal Claims No: 21–0422V
414. Elizabeth Krumsiek, Ellington, Connecticut, Court of Federal Claims No: 21–0423V
415. Shaunna Gunderson, White Plains, New York, Court of Federal Claims No: 21–0424V
416. Sara McCarthy, Chicago, Illinois, Court of Federal Claims No: 21–0425V
417. Richard Lamport, Longboat Key, Florida, Court of Federal Claims No: 21–0426V
418. Doni Corcoran, Beverly Hills, California, Court of Federal Claims No: 21–0427V
419. Rachel Barthomaly, Beverly Hills, California, Court of Federal Claims No: 21–0428V
420. Betty Luker, Beverly Hills, California, Court of Federal Claims No: 21–0429V
421. Janet Lee Thomson, Beverly Hills, California, Court of Federal Claims No: 21–0430V
422. Hope Gottbeheat, Beverly Hills, California, Court of Federal Claims No: 21–0431V
423. Robert Wimmer, Beverly Hills, California, Court of Federal Claims No: 21–0432V
424. Meghan Elisabeth Moreno, Beverly Hills, California, Court of Federal Claims No: 21–0433V
425. Sonja Myers, Beverly Hills, California, Court of Federal Claims No: 21–0434V
426. Laura Law, Los Angeles, California, Court of Federal Claims No: 21–0435V
427. Paula Renea Peterson-Michael, Elk River, Minnesota, Court of Federal Claims No: 21–0436V
428. Lakara Arnold, Beverly Hills, California, Court of Federal Claims No: 21–0437V
429. Joelle Held, New York, New York, Court of Federal Claims No: 21–0438V
430. Dana J. Lenkowsky, New York, New York, Court of Federal Claims No: 21–0439V
431. Lara Nadel, New York, New York, Court of Federal Claims No: 21–0440V
432. Tehseen Sarwar, Chicago, Illinois, Court of Federal Claims No: 21–0441V
433. Lisa Morris, Dallas, Texas, Court of Federal Claims No: 21–0442V
434. Meagan Powers, Dallas, Texas, Court of Federal Claims No: 21–0443V
435. Daniel Hickey, San Antonio, Texas, Court of Federal Claims No: 21–0444V
436. James E. Alcorn, Washington, District of Columbia, Court of Federal Claims No: 21–0445V
437. Elisabeth Fuhs, Washington, District of Columbia, Court of Federal Claims No: 21–0446V
438. Lisa Gyde, Washington, District of Columbia, Court of Federal Claims No: 21–0447V
439. Shelleen Salazar-Figueroa, White Plains, New York, Court of Federal Claims No: 21–0448V
440. Laura Jeanette Kempel, Washington, District of Columbia, Court of Federal Claims No: 21–0449V
441. Robert Dickerson, Washington, District of Columbia, Court of Federal Claims No: 21–0450V
442. Oliver Mains, Washington, District of Columbia, Court of Federal Claims No: 21–0451V
443. Yvonne Meyer, Washington, District of Columbia, Court of Federal Claims No: 21–0452V
444. Ann Scarantino, Washington, District of Columbia, Court of Federal Claims No: 21–0453V
445. Lorraine Suba, Washington, District of Columbia, Court of Federal Claims No: 21–0454V
446. Anthony Tegge, Washington, District of Columbia, Court of Federal Claims No: 21–0455V
447. Cathleen Washington, Washington, District of Columbia, Court of Federal Claims No: 21–0456V
448. Kelsey Acker, Washington, District of Columbia, Court of Federal Claims No: 21–0457V
449. Annette Horner, Washington, District of Columbia, Court of Federal Claims No: 21–0458V
450. Jessica Reisner, Washington, District of Columbia, Court of Federal Claims No: 21–0459V
451. Anastacia Wood, Washington, District of Columbia, Court of Federal Claims No: 21–0460V
452. Millie Chung, Boston, Massachusetts, Court of Federal Claims No: 21–0461V
453. Deann Baber, Woodbridge, Illinois, Court of Federal Claims No: 21–0462V
454. Nicolas Stabler, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0463V
455. Thomas L. Alley, Woodbridge, Illinois, Court of Federal Claims No: 21–0464V
456. Petra Blankenship, Villa Rica, Georgia, Court of Federal Claims No: 21–0465V

457. Veronica Wilmouth, Richmond, Virginia, Court of Federal Claims No: 21–0466V
458. Meghan Dooling, Dresher, Pennsylvania, Court of Federal Claims No: 21–0467V
459. Michelle Franceschi, Phoenix, Arizona, Court of Federal Claims No: 21–0468V
460. Danilo Ferrer, Woodbridge, Illinois, Court of Federal Claims No: 21–0469V
461. Roosevelt Poore, Richmond, Virginia, Court of Federal Claims No: 21–0470V
462. Tarsha White, Washington, District of Columbia, Court of Federal Claims No: 21–0471V
463. Bailie Hillman, Boston, Massachusetts, Court of Federal Claims No: 21–0472V
464. Regina McGillivray, Boston, Massachusetts, Court of Federal Claims No: 21–0473V
465. Carla Hargrave, Richmond, Virginia, Court of Federal Claims No: 21–0474V
466. Rebecca Alexy, Dresher, Pennsylvania, Court of Federal Claims No: 21–0475V
467. Tammy Barton, Dresher, Pennsylvania, Court of Federal Claims No: 21–0476V
468. Brooke Langford, Dresher, Pennsylvania, Court of Federal Claims No: 21–0477V
469. Meredith Potts, Dresher, Pennsylvania, Court of Federal Claims No: 21–0478V
470. Helen Osgood, Dresher, Pennsylvania, Court of Federal Claims No: 21–0479V
471. Stephanie Marshburn, Greensboro, North Carolina, Court of Federal Claims No: 21–0480V
472. Marijo Washburn, Dresher, Pennsylvania, Court of Federal Claims No: 21–0481V
473. Tony Lee Vernon, Greensboro, North Carolina, Court of Federal Claims No: 21–0482V
474. Bernessia Odom, Birmingham, Alabama, Court of Federal Claims No: 21–0483V
475. Jerrod Krebs, Dresher, Pennsylvania, Court of Federal Claims No: 21–0484V
476. Jill Veltri, Melbourne, Florida, Court of Federal Claims No: 21–0485V
477. Catherine Campbell Tingley, Norwalk, Connecticut, Court of Federal Claims No: 21–0486V
478. Brenda Robinson, Dresher, Pennsylvania, Court of Federal Claims No: 21–0487V
479. Arlene O'Connell, Boston, Massachusetts, Court of Federal Claims No: 21–0488V
480. Caroline Allen, Dresher, Pennsylvania, Court of Federal Claims No: 21–0489V
481. Tyhiem Cannon, Washington, District of Columbia, Court of Federal Claims No: 21–0490V
482. Tonya Coss, Boston, Massachusetts, Court of Federal Claims No: 21–0491V
483. Sydney Griggs, Boston, Massachusetts, Court of Federal Claims No: 21–0492V
484. Louis Brandt, Seattle, Washington, Court of Federal Claims No: 21–0494V
485. Rebecca Vandyke, Woodbridge, Illinois, Court of Federal Claims No: 21–0495V
486. Ashley Beall, Woodbridge, Illinois, Court of Federal Claims No: 21–0496V
487. Karina Beckham, Woodbridge, Illinois, Court of Federal Claims No: 21–0497V
488. Olivia Honn, New Orleans, Louisiana, Court of Federal Claims No: 21–0498V
489. Robert O'Connell, Boston, Massachusetts, Court of Federal Claims No: 21–0499V
490. Cody Greener, Richmond, Virginia, Court of Federal Claims No: 21–0500V
491. Karen Baird, Dresher, Pennsylvania, Court of Federal Claims No: 21–0501V
492. Martha Delgado, Woodbridge, Illinois, Court of Federal Claims No: 21–0502V
493. Armandina Guerra, Dresher, Pennsylvania, Court of Federal Claims No: 21–0503V
494. Haley Elise Watkins, Greensboro, North Carolina, Court of Federal Claims No: 21–0504V
495. Jenna Wagner, Woodbridge, Illinois, Court of Federal Claims No: 21–0505V
496. Mikka Painter, Boston, Massachusetts, Court of Federal Claims No: 21–0506V
497. Richard Robinson, Woodbridge, Illinois, Court of Federal Claims No: 21–0507V
498. Amanda Eden, Woodbridge, Illinois, Court of Federal Claims No: 21–0508V
499. Alicia Goodnight, Boston, Massachusetts, Court of Federal Claims No: 21–0509V
500. Pyul Horbel, Dresher, Pennsylvania, Court of Federal Claims No: 21–0510V
501. Kelsey Gates, Dresher, Pennsylvania, Court of Federal Claims No: 21–0511V
502. Brooke Elliott, Seattle, Washington, Court of Federal Claims No: 21–0512V
503. Nurten Karasen, Boston, Massachusetts, Court of Federal Claims No: 21–0513V
504. Lionel Cartwright, Richmond, Virginia, Court of Federal Claims No: 21–0514V
505. Stephanie Wanner, Washington, District of Columbia, Court of Federal Claims No: 21–0515V
506. Catherine Kane, Sarasota, Florida, Court of Federal Claims No: 21–0516V
507. Adam Scheonfeld, Dresher, Pennsylvania, Court of Federal Claims No: 21–0517V
508. Angela Wessinger, Greensboro, North Carolina, Court of Federal Claims No: 21–0518V
509. Kathy Bell, Richmond, Virginia, Court of Federal Claims No: 21–0519V
510. Juan Ortiz, Dresher, Pennsylvania, Court of Federal Claims No: 21–0520V
511. Alison Mora, Philadelphia, Pennsylvania, Court of Federal Claims No: 21–0521V
512. Cynthia Keith, Dresher, Pennsylvania, Court of Federal Claims No: 21–0522V
513. Tamela Sprigg, Williamsville, New York, Court of Federal Claims No: 21–0523V
514. Daphne McCann, Dresher, Pennsylvania, Court of Federal Claims No: 21–0524V
515. Michelle Pickett, Dresher, Pennsylvania, Court of Federal Claims No: 21–0525V
516. Kristin Young, Boston, Massachusetts, Court of Federal Claims No: 21–0526V
517. Vicki Schroeder, Boston, Massachusetts, Court of Federal Claims No: 21–0527V
518. Karen Chadduck, Richmond, Virginia, Court of Federal Claims No: 21–0528V
519. Kathleen Cromwell, Dresher, Pennsylvania, Court of Federal Claims No: 21–0529V
520. Vivien Cord, Dresher, Pennsylvania, Court of Federal Claims No: 21–0530V
521. Myra B. Crowder, Greensboro, North Carolina, Court of Federal Claims No: 21–0531V
522. Candy L. Chapman, Indianapolis, Indiana, Court of Federal Claims No: 21–0532V
523. Patricia Bulluck, Greensboro, North Carolina, Court of Federal Claims No: 21–0533V
524. Brenda Ainesworth, Dresher, Pennsylvania, Court of Federal Claims No: 21–0534V
525. Freddie Roland, Dresher, Pennsylvania, Court of Federal Claims No: 21–0535V
526. Elias Yacob, Dresher, Pennsylvania, Court of Federal Claims No: 21–0536V
527. Robert Raymond, Boston, Massachusetts, Court of Federal Claims No: 21–0537V
528. G. Matthew Kosma, Greensboro, North Carolina, Court of Federal Claims No: 21–0538V
529. Michael Mattioni, Dresher, Pennsylvania, Court of Federal Claims No: 21–0539V
530. Genene Terefe, Dresher, Pennsylvania, Court of Federal Claims No: 21–0540V
531. Amy Emilita, Dresher, Pennsylvania, Court of Federal Claims No: 21–0541V
532. Anthony Giancaterino, SR, Dresher, Pennsylvania, Court of Federal Claims No: 21–0542V
533. Frederick Singer, Dresher, Pennsylvania, Court of Federal Claims No: 21–0543V
534. Elaine Labor, Dresher, Pennsylvania, Court of Federal Claims No: 21–0544V
535. Cynthia G. Dasilva, Greensboro, North Carolina, Court of Federal Claims No: 21–0545V
536. Anna Davis, Dresher, Pennsylvania, Court of Federal Claims No: 21–0547V
537. Rahman Vace, Washington, District of Columbia, Court of Federal Claims No: 21–0548V
538. Jared Trinnaman, Dresher, Pennsylvania, Court of Federal Claims No: 21–0549V
539. Cathy Sun, Dresher, Pennsylvania, Court of Federal Claims No: 21–0550V
540. Robert Raymond, Boston, Massachusetts, Court of Federal Claims No: 21–0551V
541. Steven Gilbert, Dresher, Pennsylvania, Court of Federal Claims No: 21–0552V
542. Teela Buscarini Wyman, Washington, District of Columbia, Court of Federal Claims No: 21–0553V
543. Laura Bianco, Boston, Massachusetts, Court of Federal Claims No: 21–0554V
544. Claudia Langmaid Dresher, Pennsylvania, Court of Federal Claims No: 21–0555V
545. Marie Reyes, Boston, Massachusetts, Court of Federal Claims No: 21–0556V
546. Kimberly Evans, Boston, Massachusetts, Court of Federal Claims No: 21–0557V
547. Merle Rodgers, Woodbridge, Illinois, Court of Federal Claims No: 21–0558V
548. Maureen Epping, Boston, Massachusetts, Court of Federal Claims No: 21–0559V
549. Roxanne Rae Burkhardt, Woodbridge, Illinois, Court of Federal Claims No: 21–0560V
550. Camilla Butler, Boston, Massachusetts, Court of Federal Claims No: 21–0561V
551. Cynthia D. Bruno Sioux City, Iowa, Court of Federal Claims No: 21–0562V
552. Kelly Hilley, Dresher, Pennsylvania, Court of Federal Claims No: 21–0563V
553. Raul Diaz, Boston, Massachusetts, Court

of Federal Claims No: 21–0564V
554. D. Douglas Rice, Waterloo, Iowa, Court of Federal Claims No: 21–0565V
555. Jean Fitzsimons, New York, New York, Court of Federal Claims No: 21–0566V
556. Julie Cavanaugh, Des Moines, Iowa, Court of Federal Claims No: 21–0567V
557. Michael Durbin, Woodbridge, Illinois, Court of Federal Claims No: 21–0569V
558. Hailey Miller, Woodbridge, Illinois, Court of Federal Claims No: 21–0570V
559. Leighann Revel, Seattle, Washington, Court of Federal Claims No: 21–0571V
560. Haley C. Cardwell, Alexandria, Virginia, Court of Federal Claims No: 21–0572V
561. Naomi Mimnaugh, Wellesley Hills, Hawaii, Court of Federal Claims No: 21–0573V
562. Debora Boice, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0574V
563. Kathleen Boland, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0575V
564. Patricia Corbosiero, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0576V
565. Drita Beqiri, Woodbridge, Illinois, Court of Federal Claims No: 21–0577V
566. Tawana Reyes, Woodbridge, Illinois, Court of Federal Claims No: 21–0578V
567. Tiffany McKnight, Woodbridge, Illinois, Court of Federal Claims No: 21–0579V
568. Vanessa Gonzales, Woodbridge, Illinois, Court of Federal Claims No: 21–0580V
569. Jack Momchilovich, Woodbridge, Illinois, Court of Federal Claims No: 21–0581V
570. Lea Goff Johnson, Dresher, Pennsylvania, Court of Federal Claims No: 21–0582V
571. Holly Havis, Richmond, Virginia, Court of Federal Claims No: 21–0583V
572. Rahman Vace, Washington, District of Columbia, Court of Federal Claims No: 21–0584V
573. Kathleen Ceccarelli, Dresher, Pennsylvania, Court of Federal Claims No: 21–0585V
574. Jerry Lucks, Dresher, Pennsylvania, Court of Federal Claims No: 21–0586V
575. Patricia Kennedy, Washington, District of Columbia, Court of Federal Claims No: 21–0587V
576. Michael Pearl, Dresher, Pennsylvania, Court of Federal Claims No: 21–0588V
577. Firas Ido, Boston, Massachusetts, Court of Federal Claims No: 21–0589V
578. Ciara Nielsen, Dresher, Pennsylvania, Court of Federal Claims No: 21–0590V
579. Douglas S. Yaw, Rochester, New York, Court of Federal Claims No: 21–0591V
580. Danette Sanetra, Dresher, Pennsylvania, Court of Federal Claims No: 21–0592V
581. Nicole Egbert, Dresher, Pennsylvania, Court of Federal Claims No: 21–0593V
582. Rosanna Camire, Boston, Massachusetts, Court of Federal Claims No: 21–0594V
583. Eric Ahlstrom, Woodbridge, Illinois, Court of Federal Claims No: 21–0596V
584. Cynthia Crider, White Plains, New York, Court of Federal Claims No: 21–0597V
585. Joseph McDaniel, Dresher, Pennsylvania, Court of Federal Claims No: 21–0598V
586. Terry Ann Davies, Dresher, Pennsylvania, Court of Federal Claims No: 21–0599V
587. Rosemarie Teppert, Woodbridge, Illinois, Court of Federal Claims No: 21–0600V
588. Jacalyn Kay Whitham, Phoenix, Arizona, Court of Federal Claims No: 21–0601V
589. Gada Sweis, Dresher, Pennsylvania, Court of Federal Claims No: 21–0602V
590. Janelle Simpson, Dresher, Pennsylvania, Court of Federal Claims No: 21–0603V
591. Emily Scott, Dresher, Pennsylvania, Court of Federal Claims No: 21–0604V
592. Keith Rogers, Dresher, Pennsylvania, Court of Federal Claims No: 21–0605V
593. Geraldine L. Riser, Sioux City, Iowa, Court of Federal Claims No: 21–0606V
594. Amanda Morrison, Washington, District of Columbia Court of Federal Claims No: 21–0607V
595. Douglas Rouse, Washington, District of Columbia, Court of Federal Claims No: 21–0608V
596. Gary Blackmon, Dresher, Pennsylvania, Court of Federal Claims No: 21–0609V
597. Salvadore Foti, Dresher, Pennsylvania, Court of Federal Claims No: 21–0611V
598. Charles Baine, Dresher, Pennsylvania, Court of Federal Claims No: 21–0612V
599. Paul Mason, Boston, Massachusetts, Court of Federal Claims No: 21–0613V
600. Thomas Hashem, Dresher, Pennsylvania, Court of Federal Claims No: 21–0614V
601. Marlene Sutliff, Rochester, New York, Court of Federal Claims No: 21–0615V
602. Melinda Mae Robinson Dresher, Pennsylvania, Court of Federal Claims No: 21–0616V
603. Thomas Meirose, Dresher, Pennsylvania, Court of Federal Claims No: 21–0617V
604. Marsha White, Woodbridge, Illinois, Court of Federal Claims No: 21–0618V
605. Delma H. Armenta, Sioux City, Iowa, Court of Federal Claims No: 21–0619V
606. Ashleigh Ellis, Woodbridge, Illinois, Court of Federal Claims No: 21–0620V
607. Traci F. Cremeans, Sioux City, Iowa, Court of Federal Claims No: 21–0621V
608. Doriem Harvey, Dresher, Pennsylvania, Court of Federal Claims No: 21–0622V
609. Marcie Bennett, Dresher, Pennsylvania, Court of Federal Claims No: 21–0623V
610. Laquera Barnett, Dresher, Pennsylvania, Court of Federal Claims No: 21–0624V
611. Deidre Bratton, Woodbridge, Illinois, Court of Federal Claims No: 21–0625V
612. Heather Hogan, Dresher, Pennsylvania, Court of Federal Claims No: 21–0626V
613. Patricia Stoddard, Boston, Massachusetts, Court of Federal Claims No: 21–0627V
614. Jill McAndrew, Rochester, New York, Court of Federal Claims No: 21–0628V
615. Karen Turbe, Dresher, Pennsylvania, Court of Federal Claims No: 21–0629V
616. Carmen Kienow, Sarasota, Florida, Court of Federal Claims No: 21–0630V
617. Marcea Jones, Dresher, Pennsylvania, Court of Federal Claims No: 21–0631V
618. Bobbi Moon, Dresher, Pennsylvania, Court of Federal Claims No: 21–0632V
619. Elizabeth Wiggins, Dresher, Pennsylvania, Court of Federal Claims No: 21–0633V
620. Dolores Fernandes, Sarasota, Florida, Court of Federal Claims No: 21–0634V
621. Ronald Johnk, Dresher, Pennsylvania, Court of Federal Claims No: 21–0635V
622. Jamie Vaughan, Dresher, Pennsylvania, Court of Federal Claims No: 21–0636V
623. Elizabeth Mackenzie, Seattle, Washington, Court of Federal Claims No: 21–0637V
624. Tasha Allen, Dresher, Pennsylvania, Court of Federal Claims No: 21–0638V
625. Charlotte Klenke, Birmingham, Alabama, Court of Federal Claims No: 21–0639V
626. Linda Pressey, Dresher, Pennsylvania, Court of Federal Claims No: 21–0640V
627. Teresa Stine, Williamsville, New York, Court of Federal Claims No: 21–0641V
628. Jeannine Sumner, Dresher, Pennsylvania, Court of Federal Claims No: 21–0642V
629. Mitchell Singerman, Dresher, Pennsylvania, Court of Federal Claims No: 21–0643V
630. Timothy Moore, Dresher, Pennsylvania, Court of Federal Claims No: 21–0644V
631. Marie Belanger, Boston, Massachusetts, Court of Federal Claims No: 21–0645V
632. Roxanne Black Stritt, Dresher, Pennsylvania, Court of Federal Claims No: 21–0646V
633. Marie Foster, Dresher, Pennsylvania, Court of Federal Claims No: 21–0647V
634. Mandi Dancer, Dresher, Pennsylvania, Court of Federal Claims No: 21–0648V
635. Mary Grace Ferreira, Woodbridge, Illinois, Court of Federal Claims No: 21–0649V
636. Michael Sweeney, Woodbridge, Illinois, Court of Federal Claims No: 21–0650V
637. Sarah Haugh, Washington, District of Columbia, Court of Federal Claims No: 21–0651V
638. Patricia Gould, Dresher, Pennsylvania, Court of Federal Claims No: 21–0652V
639. Sean M. Sullivan, Richmond, Virginia, Court of Federal Claims No: 21–0653V
640. Kerri Peterson, Dresher, Pennsylvania, Court of Federal Claims No: 21–0654V
641. Lynn Oxenberg, Dresher, Pennsylvania, Court of Federal Claims No: 21–0655V
642. Ruth Hill, Woodbridge, Illinois, Court of Federal Claims No: 21–0656V
643. John Russell Foster, Dresher, Pennsylvania, Court of Federal Claims No: 21–0657V
644. Dayna Higgins, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0658V
645. Michelle Tronolone, Dresher, Pennsylvania, Court of Federal Claims No: 21–0659V
646. Kim Newdall, Dresher, Pennsylvania, Court of Federal Claims No: 21–0660V
647. Susan Fenar, Dresher, Pennsylvania, Court of Federal Claims No: 21–0661V
648. Jean Soderstrom, Rochester, New York, Court of Federal Claims No: 21–0662V
649. Mary Alsup, Dresher, Pennsylvania, Court of Federal Claims No: 21–0663V
650. Lisa Brewer, Phoenix, Arizona, Court of Federal Claims No: 21–0664V
651. Marie Tyler, Sarasota, Florida, Court of Federal Claims No: 21–0665V
652. Anita Kliebert, Richmond, Virginia, Court of Federal Claims No: 21–0666V
653. Erin Elliott, Seattle, Washington, Court of Federal Claims No: 21–0667V

654. Kathleen Keleher, Seattle, Washington, Court of Federal Claims No: 21–0668V
655. Ivonne Lutes, Dresher, Pennsylvania, Court of Federal Claims No: 21–0669V
656. Sharon Laulicht, Woodbridge, Illinois, Court of Federal Claims No: 21–0670V
657. Maria Herrero Gonzalez, Seattle, Washington, Court of Federal Claims No: 21–0671V
658. Sharon Labor, Phoenix, Arizona, Court of Federal Claims No: 21–0672V
659. Kala Mangal, Woodbridge, Illinois, Court of Federal Claims No: 21–0673V
660. Carol Eaton, Woodbridge, Illinois, Court of Federal Claims No: 21–0675V
661. Tracy Jefferies, Seattle, Washington, Court of Federal Claims No: 21–0676V
662. Sandy Jubran, Houston, Texas, Court of Federal Claims No: 21–0677V
663. Jon Morris, Woodbridge, Illinois, Court of Federal Claims No: 21–0678V
664. Alexis Wnuk, Washington, District of Columbia, Court of Federal Claims No: 21–0679V
665. Isabel Del Vecchio, Washington, District of Columbia, Court of Federal Claims No: 21–0680V
666. Carin Dickmeyer, Washington, District of Columbia, Court of Federal Claims No: 21–0681V
667. Brandy Double, Washington, District of Columbia, Court of Federal Claims No: 21–0682V
668. Dorothy Harper, Washington, District of Columbia, Court of Federal Claims No: 21–0683V
669. Nathan Mathews, Sarasota, Florida, Court of Federal Claims No: 21–0684V
670. Sonja Jackman, Boston, Massachusetts, Court of Federal Claims No: 21–0685V
671. Ralph Blaine, Dresher, Pennsylvania, Court of Federal Claims No: 21–0686V
672. Anna Marie Loretan, Washington, District of Columbia, Court of Federal Claims No: 21–0687V
673. Nancie Stevens, Dresher, Pennsylvania, Court of Federal Claims No: 21–0688V
674. Patricia Pearce, Seattle, Washington, Court of Federal Claims No: 21–0689V
675. Base-Marthe Clairmy, Dresher, Pennsylvania, Court of Federal Claims No: 21–0690V
676. Darrick Northington, Woodbridge, Illinois, Court of Federal Claims No: 21–0691V
677. Linda Lykins, Washington, District of Columbia, Court of Federal Claims No: 21–0692V
678. Amanda Prieur, Boston, Massachusetts, Court of Federal Claims No: 21–0693V
679. Parth Parikh, Dresher, Pennsylvania, Court of Federal Claims No: 21–0694V
680. Ruby Siddle, Boston, Massachusetts, Court of Federal Claims No: 21–0695V
681. Gina Singh, Dresher, Pennsylvania, Court of Federal Claims No: 21–0696V
682. Erin Briggs, Jackson, Mississippi, Court of Federal Claims No: 21–0697V
683. Jasmine Bean, Boston, Massachusetts, Court of Federal Claims No: 21–0698V
684. Kristine Law, Dresher, Pennsylvania, Court of Federal Claims No: 21–0699V
685. Michael Hanson, Dresher, Pennsylvania, Court of Federal Claims No: 21–0700V
686. Connie Moser, Dresher, Pennsylvania, Court of Federal Claims No: 21–0701V
687. Sharon Williams, Dresher, Pennsylvania, Court of Federal Claims No: 21–0702V
688. Amy Miller, Dresher, Pennsylvania, Court of Federal Claims No: 21–0703V
689. Antoinette Porter, Dresher, Pennsylvania, Court of Federal Claims No: 21–0704V
690. Wanda Snoody, Woodbridge, Illinois, Court of Federal Claims No: 21–0705V
691. Virginia Crimmings, Dresher, Pennsylvania, Court of Federal Claims No: 21–0706V
692. Maryann Seguritan, Dresher, Pennsylvania, Court of Federal Claims No: 21–0707V
693. Mark West, Woodbridge, Illinois, Court of Federal Claims No: 21–0708V
694. Natalie Iovino-Shoenfeld, Dresher, Pennsylvania, Court of Federal Claims No: 21–0709V
695. Joice Gooden, Woodbridge, Illinois, Court of Federal Claims No: 21–0710V
696. Kathleen Rice, Sarasota, Florida, Court of Federal Claims No: 21–0711V
697. Alane Babington, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0712V
698. Mary Ann Nguyen, Houston, Texas Court of Federal Claims No: 21–0713V
699. Michelle Pardo, Woodbridge, Illinois, Court of Federal Claims No: 21–0714V
700. Malinda Powell, Woodbridge, Illinois, Court of Federal Claims No: 21–0715V
701. Michelle Guyette, Woodbridge, Illinois, Court of Federal Claims No: 21–0716V
702. Cynthia Crider, White Plains, New York, Court of Federal Claims No: 21–0717V
703. Edna Beebe, Woodbridge, Illinois, Court of Federal Claims No: 21–0718V
704. Nobuntu Moyo, Woodbridge, Illinois, Court of Federal Claims No: 21–0719V
705. Laura Lunsford, Houston, Texas, Court of Federal Claims No: 21–0720V
706. Robert J. Owens, SR, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0721V
707. Brad Pappalardo, Woodbridge, Illinois, Court of Federal Claims No: 21–0722V
708. Heather Silverman, Woodbridge, Illinois, Court of Federal Claims No: 21–0723V
709. Janice Jablonowski, Woodbridge, Illinois, Court of Federal Claims No: 21–0724V
710. Robert Chiago, Phoenix, Arizona, Court of Federal Claims No: 21–0727V
711. Susan Jenkins, Boston, Massachusetts, Court of Federal Claims No: 21–0729V
712. Mark Woodward, Sacramento, California, Court of Federal Claims No: 21–0730V
713. Benjamin Kane, Amesbury, Massachusetts, Court of Federal Claims No: 21–0731V
714. Glenn F. Wollinger, Sandown, New Hampshire, Court of Federal Claims No: 21–0733V
715. Hannah Clark, Batavia, Ohio, Court of Federal Claims No: 21–0734V
716. Elizabeth Moscone, Wakefield, Massachusetts, Court of Federal Claims No: 21–0735V
717. Katherine Varde, Houston, Texas, Court of Federal Claims No: 21–0741V
718. Destiny Blanke, White Plains, New York, Court of Federal Claims No: 21–0742V
719. Crystle Perez, Boston, Massachusetts, Court of Federal Claims No: 21–0746V
720. Patricia Hurta, Woodbridge, Illinois, Court of Federal Claims No: 21–0747V
721. Lydia Bitcover, Lawrenceville, New Jersey, Court of Federal Claims No: 21–0748V
722. Harold Anderson, Washington, District of Columbia, Court of Federal Claims No: 21–0749V
723. Gary Casterline, Jr., Washington, District of Columbia, Court of Federal Claims No: 21–0750V
724. Brandon Farris, Washington, District of Columbia, Court of Federal Claims No: 21–0751V
725. Nicholas Gillon, Washington, District of Columbia, Court of Federal Claims No: 21–0752V
726. Mary Holden, White Plains, New York, Court of Federal Claims No: 21–0754V
727. John Pryor, Houston, Texas, Court of Federal Claims No: 21–0755V
728. Steven Lapidus, M.D., White Plains, New York, Court of Federal Claims No: 21–0756V
729. Toby Huitt, White Plains, New York, Court of Federal Claims No: 21–0757V
730. Kelley Kaczerowski, Washington, District of Columbia, Court of Federal Claims No: 21–0758V
731. Michael Dinardo and Connie Dinardo on behalf of G.D., Phoenix, Arizona, Court of Federal Claims No: 21–0760V
732. Dillan Conrad, Dallas, Texas, Court of Federal Claims No: 21–0761V
733. Marcos A. Barreto Bosquez, San Juan, Puerto Rico, Court of Federal Claims No: 21–0762V
734. Darla Vanschuyver, White Plains, New York, Court of Federal Claims No: 21–0763V
735. Mario Garcia, Washington, District of Columbia, Court of Federal Claims No: 21–0764V
736. Francis Traietta, Port Jefferson, New York, Court of Federal Claims No: 21–0765V
737. Caroline Cantera, Phoenix, Arizona, Court of Federal Claims No: 21–0766V
738. Robin Siemiatkoski, White Plains, New York, Court of Federal Claims No: 21–0767V
739. Celina Ramirez, White Plains, New York, Court of Federal Claims No: 21–0768V
740. Lillian Teague, Williamsville, New York, Court of Federal Claims No: 21–0769V
741. Inah Choe, Dresher, Pennsylvania, Court of Federal Claims No: 21–0770V
742. Brandie Woodward, White Plains, New York, Court of Federal Claims No: 21–0771V
743. Kirstin Anne Smith, Salt Lake City, Utah, Court of Federal Claims No: 21–0772V
744. Sharon Tsengoles, White Plains, New York, Court of Federal Claims No: 21–0774V
745. Shafiq Imani, Milwaukee, Wisconsin, Court of Federal Claims No: 21–0777V
746. Lauren Elwell, Gainesville, Florida, Court of Federal Claims No: 21–0779V

747. Catherine Dicus, Tulsa, Oklahoma, Court of Federal Claims No: 21–0780V
748. Sara MacPhee, Washington, District of Columbia, Court of Federal Claims No: 21–0781V
749. Lynn Duclos, Washington, District of Columbia, Court of Federal Claims No: 21–0782V
750. Sean Jiggins, Washington, District of Columbia, Court of Federal Claims No: 21–0783V
751. Sarah Holbrook-Lipscomb on behalf of M.L., Phoenix, Arizona, Court of Federal Claims No: 21–0784V
752. Lebrian Spaugh, Washington, District of Columbia, Court of Federal Claims No: 21–0785V
753. Kathryn Alexander, Englewood, New Jersey, Court of Federal Claims No: 21–0786V
754. Alane Babington, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0789V
755. Naomi Mimnaugh, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0790V
756. Robert J. Owens, Sr., Wellesley Hills, California, Court of Federal Claims No: 21–0791V
757. Dayna Higgins, Wellesley Hills, Massachusetts, Court of Federal Claims No: 21–0792V
758. Mary Saville, Washington, District of Columbia, Court of Federal Claims No: 21–0794V
759. Wanda Lange, Houston, Texas, Court of Federal Claims No: 21–0797V
760. Rocelyn Nepomuceno, Boston, Massachusetts, Court of Federal Claims No: 21–0798V
761. Hanna Ozarski, New York, New York, Court of Federal Claims No: 21–0800V
762. Corrine O'Sullivan-Bradley, Rochester, New York, Court of Federal Claims No: 21–0802V
763. Vincent R. Bedogne, Farmington Hills, Michigan, Court of Federal Claims No: 21–0803V
764. Haley Faro, Rochester, New York, Court of Federal Claims No: 21–0805V
765. James Malkin, Boston, Massachusetts, Court of Federal Claims No: 21–0806V
766. Malikia Craddle, Washington, District of Columbia, Court of Federal Claims No: 21–0808V
767. Martha T. Cunningham, Tucson, Arizona, Court of Federal Claims No: 21–0809V
768. Nabila Gebran, White Plains, New York, Court of Federal Claims No: 21–0810V
769. Bryce Maddox, Englewood, New Jersey, Court of Federal Claims No: 21–0811V
770. Edna Groen, Covington, Kentucky, Court of Federal Claims No: 21–0812V
771. Jeanine John, Seattle, Washington, Court of Federal Claims No: 21–0813V
772. Pete Heffron, Solana Beach, California, Court of Federal Claims No: 21–0814V
773. Fatima Collins, Fort Worth, Texas, Court of Federal Claims No: 21–0815V
774. Linda Garcia, San Antonio, Texas, Court of Federal Claims No: 21–0816V
775. Holly Jenkins, Washington, District of Columbia, Court of Federal Claims No: 21–0819V
776. Danielle Awe, Boston, Massachusetts, Court of Federal Claims No: 21–0821V
777. Marlene Koenig-Wiltse, Washington, District of Columbia, Court of Federal Claims No: 21–0822V
778. Edward Tyson, Washington, District of Columbia, Court of Federal Claims No: 21–0823V
779. Marie Galeno, Dresher, Pennsylvania, Court of Federal Claims No: 21–0824V
780. Ramon Pinon, Seattle, Washington, Court of Federal Claims No: 21–0825V
781. Kacy Barker, Boston, Massachusetts, Court of Federal Claims No: 21–0826V
782. Kim Hill, Russellville, Alabama, Court of Federal Claims No: 21–0848V

[FR Doc. 2021–03610 Filed 2–22–21; 8:45 am]

BILLING CODE 4165–15–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: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases Research Committee Microbiology and Infectious Diseases Research Committee (MID).

Date: May 26–27, 2021.

Time: 10:30 a.m. to 6:00 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 3G51, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Amir E. Zeituni, Ph.D., Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health 5601 Fishers Lane, Room 3G51 Rockville, MD 20852, 301–496–2550, *amir.zeituni@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: February 17, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03612 Filed 2–22–21; 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; Mucosal Immunology Studies Team (MIST) (U01 Clinical Trial Not Allowed).

Date: March 22–23, 2021.

Time: 10:00 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 3G42, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Sandip Bhattacharyya, 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 3G42, Rockville, MD 20852, 240–292–0189, *sandip.bhattacharyya@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: February 17, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03613 Filed 2–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships, Population Sciences and Epidemiology: Additional Applications.
Date: March 16, 2021.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Denise Wiesch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, (301) 437–3478, *wieschd@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cellular Mechanisms.
Date: March 16, 2021.
Time: 1:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Zubaida Rangwalla Saifudeen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301.827.3029, *zubaida.saifudeen@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cognition, Perception, and Motor Function.
Date: March 16, 2021.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bioengineering.
Date: March 18–19, 2021.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Joseph D. Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 435–2344, *moscajos@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR20–117: Maximizing Investigators' Research Award (MIRA) for Early Stage Investigators (R35—Clinical Trial Optional).
Date: March 18–19, 2021.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Thomas Y. Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Rm. 5144, MSC 7840, Bethesda, MD 20892, (301) 402–4179, *thomas.cho@nih.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Systemic Injury by Environmental Exposure.
Date: March 18–19, 2021.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: The Cancer Biotherapeutics Development (CBD).
Date: March 18–19, 2021.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Laura Asnaghi, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, (301) 443–1196, *laura.asnaghi@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small business: Cardiovascular Sciences.
Date: March 18–19, 2021.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Margaret Chandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7814, Bethesda, MD 20892, (301) 435–1743, *margaret.chandler@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.
Date: March 18–19, 2021.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jian Cao, MD, Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Rm. 4196, Bethesda, MD 20892, (301) 827–5902, *caojn@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Neuro/Psychopathology, Lifespan Development, and STEM Education.
Date: March 18–19, 2021.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Elia K. Ortenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7816, Bethesda, MD 20892, (301) 827–7189, *femiaee@csr.nih.gov*.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; HIV Coinfections and HIV Associated Cancers Study Section.
Date: March 18, 2021.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–451–5953, *tuoj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Antimicrobial Therapeutics and Resistance.
Date: March 18–19, 2021.
Time: 10:00 a.m. to 7:30 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: Susan Daum, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, Bethesda, MD 20892, 301–827–7233, *susan.boyle-vavra@nih.gov*.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group;

HIV Immunopathogenesis and Vaccine Development Study Section.

Date: March 18, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shiv A. Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member conflict: Musculoskeletal and Skin Pathobiology and Regeneration.

Date: March 18, 2021.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, (301) 435–1781, *liuyh@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–HD–21–008: Pediatric Biospecimen Procurement Center Supporting the Developmental Gene Expression (dGTEx) Project (U24).

Date: March 19, 2021.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Speech, Language, and Communication.

Date: March 19, 2021.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sara Louise Hargrave, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3170, Bethesda, MD 20892, (301) 443–7193, *hargravesl@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 17, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03617 Filed 2–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; HEAL: Pain Therapeutics Development Small Molecule and Biologics.

Date: March 15, 2021.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Rockville, MD 20852, (301) 435–6033, *rajarams@mail.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; P01 Review.

Date: March 16–19, 2021.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Li Jia, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH, 6001 Executive Boulevard, Room 3208D, Rockville, MD 20852, 301–451–2854, *li.jia@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Wellstone Centers Review.

Date: March 18–19, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: W. Ernest Lyons, Ph.D., Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Rockville, MD 20852, 301–496–4056, *lyonse@ninds.nih.gov*.

Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: February 17, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03614 Filed 2–22–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Mental Health Services National Advisory Council; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given for the meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services National Advisory Council (CMHS NAC) on March 18, 2021.

The Council was established to advise the Secretary, Department of Health and Human Services (HHS); the Assistant Secretary for Mental Health and Substance Use, SAMHSA; and Director, CMHS concerning matters relating to the activities carried out by and through the Center and the policies respecting such activities.

The meeting is open to the public and can be accessed remotely only. Attendance by the public on-site will not be available. The meeting will include consideration of the minutes from the August 27, 2020, SAMHSA, CMHS NAC meeting; updates from the CMHS Director; and a discussion from the SAMHSA Chief of Staff and the Acting Assistant Secretary for Mental Health and Substance Use.

The agenda will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.*

Interested persons may present data, information, or views, orally or in

writing, on issues pending before the Council. Individuals interested in sending written submissions or making public comments, must forward them to, and notify the contact person on or before March 12, 2021. Up to three minutes will be allotted for each presentation.

Registration is required to participate during this meeting. To attend virtually, or to obtain the call-in number and access code, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register on-line at: *http://snacregister.samhsa.gov/MeetingList.aspx,* or communicate with Pam Foote, Designated Federal Officer (DFO).

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA website at: *http://www.samhsa.gov/about-us/advisory-councils/cmhs-national-advisory-council,* or the DFO.

Council Name: Substance Abuse and Mental Health Services Administration Center for Mental Health Services National Advisory Council.

Date/Time/Type: Thursday, March 18, 2021; 1:00 p.m. to 4:30 p.m., EDT, (OPEN).

Place: SAMHSA, 5600 Fishers Lane, Rockville, MD 20857.

Contact: Pamela Foote, Designated Federal Officer (DFO), CMHS National Advisory Council, 5600 Fishers Lane, Room 14E57B, Rockville, Maryland 20857, Telephone: (240) 276–1279, Fax: (301) 480–8491, Email: *pamela.foote@samhsa.hhs.gov*.

Dated: February 16, 2021.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2021–03542 Filed 2–22–21; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the Substance Abuse and Mental Health Services Administration's National Advisory Council

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given of the meeting on March 22, 2021, of the Substance Abuse and Mental Health Services Administration's (SAMHSA) National Advisory Council (SAMHSA NAC).

The meeting is open to the public and can only be accessed virtually. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include remarks and discussion with the Acting Assistant Secretary for Mental Health and Substance Use; updates on SAMHSA priorities, new grant opportunities and initiatives, and a council discussion on clinical trends and emerging national issues with SAMHSA NAC members.

DATES: March 22, 2021, 1:00 p.m. to approximately 5:00 p.m. (ET)/Open.

ADDRESSES: The meeting will be held virtually.

FOR FURTHER INFORMATION CONTACT: Carlos Castillo, Committee Management Officer and Designated Federal Official, SAMHSA National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–2787 Email: *carlos.castillo@samhsa.hhs.gov.* Valerie Kolick, Acting Designated Federal Officer, SAMHSA National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (240) 276–1738, Email: *valerie.kolick@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION: The SAMHSA NAC was established to advise the Secretary, Department of Health and Human Services (HHS), and the Assistant Secretary for Mental Health and Substance Use, SAMHSA, to improve the provision of treatments and related services to individuals with respect to substance use and to improve prevention services, promote mental health, and protect legal rights of individuals with mental illness and individuals who are substance users.

Interested persons may present data, information, or views orally or in writing, on issues pending before the Council. Written submissions must be forwarded to the contact person no later than seven days before the meeting. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in making oral presentations must notify the contact person by March 12, 2021. Up to three minutes will be allotted for each presentation, and as time permits.

To obtain the call-in number, access code, and/or web access link; submit written or brief oral comments; or request special accommodations for persons with disabilities, please register on-line at: *https://snacregister.samhsa.gov/MeetingList.aspx,* or communicate with SAMHSA's Committee Management Officer, CAPT Carlos Castillo.

Meeting information and a roster of Council members may be obtained either by accessing the SAMHSA Council's website at *http://www.samhsa.gov/about-us/advisory-councils/,* or by contacting Carlos Castillo or Valerie Kolick.

Council Name: Substance Abuse and Mental Health Services Administration National Advisory Council.

Authority: Public Law 92–463.

Dated: February 17, 2021.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2021–03573 Filed 2–22–21; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–10; OMB Control No. 2502–0427]

30-Day Notice of Proposed Information Collection: Mortgagee's Application for Partial Settlement (Multifamily Mortgage)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* March 25, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. 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/StartPrintedPage15501PRAMain.* 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. 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. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 17, 2020.

A. Overview of Information Collection

Title of Information Collection: Mortgagee's Application for Partial Settlement (Multifamily Mortgage).

OMB Approval Number: 2502–0427.

OMB Expiration Date: 12/31/2020.

Type of Request: Revision of a currently approved collection.

Form Numbers: HUD–2537, HUD–2747, HUD–1044–D.

Description of the need for the information and proposed use: When a FHA insured Multifamily mortgage goes into default, the Mortgagee may file a claim with the Secretary to receive the insurance benefits. The Mortgagee is required by HUD to furnish HUD Form 2537 prior to receiving the telefax. Once the telefax arrives, HUD pays 70 or 90% of the UPB plus interest within 24 to 48 hours after assignment or conveyance. Interest will continue to accrue on the claim until the partial settlement is paid. Interest paid on each claim is based on the default date, the escrows reported on HUD form 2537 and the Unpaid Principal Balance reported.

Respondents: Business or other for-profit; State, Local, or Tribal Government.

Estimated Number of Respondents: 110.

Estimated Number of Responses: 110.

Frequency of Response: 1.

Average Hours per Response: 1.75.

Total Estimated Burden: 193.

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.

(5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

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.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–03553 Filed 2–22–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–09; OMB Collection 2502–0574]

30-Day Notice of Proposed Information Collection: Office of Housing Counseling—Agency Performance Review

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* March 25, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. 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/StartPrintedPage15501PRAMain.* 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at (800) 877–8339. This is a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 17, 2020 at 85 FR 81945.

A. Overview of Information Collection

Title of Information Collection: Office of Housing Counseling—Agency Performance Review.

OMB Approval Number: 2502–0574.

OMB Expiration Date: March 31, 2021.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–9910, Office of Housing Counseling—Performance Review Of a HUD-Approved Housing Counseling Agency or Participating Agency.

Description of the need for the information and proposed use: The information is used to assist HUD in evaluating the managerial and financial capacity of organizations to sustain operations sufficient to implement HUD approved housing counseling programs. The collection of information assists HUD to reduce its own risk from fraudulent activities or supporting inefficient or ineffective housing counseling programs. Since HUD publishes a web list of HUD-approved Housing Counseling Agencies and maintains a toll-free housing counseling hotline, performance reviews help HUD ensure that individuals seeking assistance from these approved agencies can have confidence in the quality of services that they will receive.

HUD uses performance reviews to ascertain the professional and management capacity of HUD-approved Housing Counseling Agencies to provide adequate housing counseling services that are necessary to comply with the requirements of the Housing and Urban Development Act and to ensure that grant funded organizations comply with HUD and OMB administrative and financial regulations. If this information is not collected, HUD would be unable to effectively monitor the Housing Counseling Program to guard against waste, fraud, abuse, or inappropriate program practices. This collection provides the means to meet that obligation.

Respondents (*i.e., affected public):* Not-for profit institutions; State, Local, or Tribal Governments.

Estimated Number of Respondents: 353 annually.

Estimated Number of Responses: 353 annually.

Frequency of Response: 1 per agency performance review.

Average Hours per Response: 1 hour annually.

Total Estimated Burden: 353 hours.

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.

(5) Ways to minimize the burden of the collection of information on those who are respond, including the use of automated collection techniques or other forms of information technology.

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. 3507.

Colette Pollard,

Department Reports Management Officer Assistant, Office of the Chief Information Officer.

[FR Doc. 2021–03552 Filed 2–22–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2020–0018]

Withdrawal of the Public Review Period for Cook Inlet Lease Sale 258

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice to withdraw public review period.

SUMMARY: BOEM is withdrawing the public review period and virtual public hearings announced in the Notice of Availability (NOA) of the Draft Environmental Impact Statement (DEIS) for the proposed Cook Inlet Lease Sale 258.

DATES: This withdrawal is effective immediately. The public review period, scheduled to close March 1, 2021, and the virtual public hearings, scheduled for February 9–11, 2021, are canceled.

FOR FURTHER INFORMATION CONTACT: For information regarding this notice, please contact Amee Howard, Project Manager, Bureau of Ocean Energy Management, Alaska Regional Office, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503–5823, by telephone at (907) 334–5200, or by email at *amee.howard@boem.gov.*

SUPPLEMENTARY INFORMATION: On January 15, 2021, BOEM published an NOA for the proposed Cook Inlet Lease Sale 258 DEIS. The NOA began a 45-day comment period and announced the dates and times of three virtual public hearings. However, in response to Executive Order 14008, BOEM has decided to cancel the comment period and public hearings for the Lease Sale 258 DEIS.

Executive Order 14008, published in the **Federal Register** on February 1, 2021, directed the Secretary of the Interior to pause new oil and gas leasing on public lands and offshore waters pending completion of a comprehensive review of Federal oil and gas activities, including climate and other impacts. Consistent with the Executive Order, BOEM has decided to cancel the comment period and virtual public hearings for Lease Sale 258 DEIS. This decision to postpone further environmental review of the lease sale pending completion of the review specified in the Executive Order was made to avoid administrative costs associated with holding hearings on the sale while it is under review. In advance of this notice, on February 4, 2021, BOEM issued a press release and updated its website to notify stakeholders that the public review period and virtual public hearings were cancelled. If, after completion of the review directed in Executive Order 14008, BOEM resumes its environmental review of Lease Sale 258, a notice will be published in the **Federal Register**.

Authority: This notice to withdraw the public review period is published pursuant to 42 U.S.C. 4321 *et seq.;* 40 CFR 1506.6 (2019 ed.).

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2021–03693 Filed 2–22–21; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1528 (Final)]

Seamless Refined Copper Pipe and Tube From Vietnam; Scheduling of the Final Phase of an Anti-Dumping Duty Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1528 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of seamless refined copper pipe and tube from Vietnam, provided for in subheading 7411.10.10 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be sold at less-than-fair-value.

DATES: February 1, 2021.

FOR FURTHER INFORMATION CONTACT: Jordan Harriman ((202) 205–2610), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of this investigation, Commerce has defined the subject merchandise as all seamless circular refined copper pipes and tubes, including redraw hollows, greater than

or equal to 6 inches (152.4 mm) in actual length and measuring less than 12.130 inches (308.102 mm) in actual outside diameter (OD), regardless of wall thickness, bore (*e.g.,* smooth, enhanced with inner grooves or ridges), manufacturing process (*e.g.,* hot finished, cold-drawn, annealed), outer surface (*e.g.,* plain or enhanced with grooves, ridges, fins, or gills), end finish (*e.g.,* plain end, swaged end, flared end, expanded end, crimped end, threaded), coating (*e.g.,* plastic, paint), insulation, attachments (*e.g.,* plain, capped, plugged, with compression or other fitting), or physical configuration (*e.g.,* straight, coiled, bent, wound on spools).

The scope of this investigation covers, but is not limited to, seamless refined copper pipe and tube produced or comparable to the American Society for Testing and Materials (ASTM) ASTM–B42, ASTM–B68, ASTM–B75, ASTM–B88, ASTM–B88M, ASTM–B188, ASTM–B251, ASTM–B251M, ASTM–B280, ASTM–B302, ASTM–B306, ASTM–B359, ASTM–B743, ASTM–B819, and ASTM–B903 specifications and meeting the physical parameters described therein.[1]

Background.—The final phase of this investigation is being scheduled, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), as a result of an affirmative preliminary determination by Commerce that imports of seamless refined copper pipe and tube from Vietnam are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on June 30, 2020, by the American Copper Tube Coalition, consisting of the Mueller Group, Collierville, Tennessee, and Cerro Flow Products, LLC, Sauget, Illinois.

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on May 27, 2021, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on June 15, 2021. Information about the place and form of the hearing, including about how to participate in and/or view the hearing, will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.* Interested parties should check the Commission's website periodically for updates. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 8, 2021. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held at 9:30 a.m. on June 14, 2021. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is June 7, 2021. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 22, 2021. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before June 22, 2021. On July 13, 2021, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 15, 2021, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

[1] For Commerce's complete scope, see ''Seamless Refined Copper Pipe and Tube From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Negative Determination of Critical Circumstances,'' 86 FR 7698, February 1, 2021.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: February 18, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–03678 Filed 2–22–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2021 Adverse Effect Wage Rates for Non-Range Occupations

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2021 Adverse Effect Wage Rates (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H–2A workers) to perform agricultural labor or services other than the herding or production of livestock on the range. AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H–2A workers and workers in corresponding employment for a particular occupation and area so that the wages and working conditions of similarly employed workers in the United States will not be adversely affected. In this notice, the Department announces updates of the AEWRs, which are effective immediately pursuant to a recent federal court order. Supplemental Order Regarding Preliminary Injunctive Relief, *United Farm Workers, et al.* v. *U.S. Dep't of Labor, et al.,* No. 20–cv–1690 (E.D. Cal. Jan. 12, 2021), ECF No. 39.

DATES: These rates are applicable *February 23, 2021.*

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, telephone: (202) 693–8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889–5627.

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A nonimmigrant temporary and seasonal agricultural workers in the United States unless the petitioner has received an H–2A labor certification from the Department. The labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5); 20 CFR 655.100.

Adverse Effect Wage Rates for 2021

The Department's H–2A regulations at 20 CFR 655.122(l) provide that employers must pay their H–2A workers and workers in corresponding employment at least the highest of: (i) The AEWR; (ii) the prevailing hourly wage rate; (iii) the prevailing piece rate; (iv) the agreed-upon collective bargaining wage rate; or (v) the federal or state minimum wage rate in effect at the time the work is performed. Further, when the AEWR is adjusted during a work contract and is higher than the highest of the previous AEWR, the prevailing rate, the agreed-upon collective bargaining wage, the Federal minimum wage rate, or the state minimum wage rate, the employer must pay that adjusted AEWR upon the effective date of the new rate, as provided in the applicable **Federal Register** Notice. *See* 20 CFR 655.122(l) (requiring the applicable AEWR or other wage rate to be paid based on the AEWR or rate in effect ''at the time work is performed'').

On November 5, 2020, the Department published a final rule, *Adverse Effect Wage Rate Methodology for the Temporary Employment of H–2A Nonimmigrants in Non-Range Occupations in the United States,* 85 FR 70445 (2020 AEWR final rule), to establish a new methodology for setting hourly AEWRs, effective December 21, 2020. On December 23, 2020, the U.S. District Court for the Eastern District of California issued an order enjoining the Department from implementing the 2020 AEWR final rule and ordering the Department to operate under the 2010 rule, *Temporary Agricultural Employment of H–2A Aliens in the United States,* 75 FR 6884 (Feb. 12, 2010). Order Granting Plaintiffs' Motion for a Preliminary Injunction, *United Farm Workers, et al.* v. *U.S. Dep't of Labor, et al.,* No. 20–cv–1690 (E.D. Cal.), ECF No. 37. On January 12, 2021, the district court issued a supplemental order requiring the Department to publish the AEWRs for 2021 in the **Federal Register** on or before February 25, 2021, using the methodology set forth in the 2010 rule, and to make those AEWRs effective upon their publication. Supplemental Order Regarding Preliminary Injunctive Relief, *United Farm Workers, et al.* v. *U.S. Dep't of Labor, et al.,* No. 20–cv–1690 (E.D. Cal.), ECF No. 39. Pursuant to the district court's supplemental order, the Department notified state workforce agencies (SWAs), employers, and the general public that the AEWRs in effect on December 20, 2020, remained in effect during the interim period until the Department published this update of the AEWRs for 2021 in the **Federal Register**. *See, e.g.,* Announcements, *OFLC Announces Updates to Implementation of the H–2A Adverse Effect Wage Rate Methodology for Non-Range Occupations Final Rule; Compliance with District Court Order* (Jan. 15, 2021), available at *https://www.dol.gov/agencies/eta/foreign-labor/news.* As reflected in the Department's announcement on the OFLC website at *https://www.dol.gov/agencies/eta/foreign-labor/news,* the district court's supplemental order also reserved decision on whether an award of backpay to affected H–2A workers may be warranted based on the difference, if any, between the applicable 2020 AEWRs and the 2021 AEWRs announced in this notice.

Accordingly, the 2021 AEWRs for all agricultural employment (except for the herding or production of livestock on the range, which is covered by 20 CFR 655.200–235) for which temporary H–2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) in the state or region as

published by the U.S. Department of Agriculture (USDA) in the 2020 Farm Labor Report on February 11, 2021.

The 2021 AEWRs to be paid for agricultural work performed by H–2A and U.S. workers on and after the effective date of this notice are set forth in the table below:

TABLE—2021 ADVERSE EFFECT WAGE RATES

State	2021 AEWRs
Alabama	$11.81
Arizona	13.67
Arkansas	11.88
California	16.05
Colorado	14.82
Connecticut	14.99
Delaware	14.05
Florida	12.08
Georgia	11.81
Hawaii	15.56
Idaho	14.55
Illinois	15.31
Indiana	15.31
Iowa	15.37
Kansas	15.89
Kentucky	12.96
Louisiana	11.88
Maine	14.99
Maryland	14.05
Massachusetts	14.99
Michigan	14.72
Minnesota	14.72
Mississippi	11.88
Missouri	15.37
Montana	14.55
Nebraska	15.89
Nevada	14.82
New Hampshire	14.99
New Jersey	14.05
New Mexico	13.67
New York	14.99
North Carolina	13.15
North Dakota	15.89
Ohio	15.31
Oklahoma	13.03
Oregon	16.34
Pennsylvania	14.05

TABLE—2021 ADVERSE EFFECT WAGE RATES—Continued

State	2021 AEWRs
Rhode Island	14.99
South Carolina	11.81
South Dakota	15.89
Tennessee	12.96
Texas	13.03
Utah	14.82
Vermont	14.99
Virginia	13.15
Washington	16.34
West Virginia	12.96
Wisconsin	14.72
Wyoming	14.55

Dated: February 18, 2021.

Milton A. Stewart,

Acting Secretary of Labor.

[FR Doc. 2021–03752 Filed 2–19–21; 4:15 pm]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities: Announcement of the Office of Management and Budget (OMB) Control Numbers Under the Paperwork Reduction Act

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice; announcement of the Office of Management and Budget's (OMB) approval of information collection requirements.

SUMMARY: The Occupational Safety and Health Administration (OSHA) announces that OMB extended approval for information collection requirements found in OSHA's standards and its regulations on the Student Data Form and Conflict of Interest and Disclosure Form outlined in this notice. OSHA sought approval of these requirements under the Paperwork Reduction Act of 1995 (PRA), and, as required by that Act, is announcing the approval numbers and expiration dates for these requirements and regulations.

DATES: Applicable February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION: In a series of **Federal Register** notices, the agency provided 60-day comment periods for the public to respond to OSHA's burden hour and cost estimates. The various information collection (paperwork) requirements in the safety and health standards pertain to general industry, construction, shipyards and maritime (*i.e.,* 29 CFR parts 1910, 1915, and 1926), and its regulations on the OSHA Student Data Form and OSHA's Conflict of Interest and Disclosure Form.

In accordance with the PRA (44 U.S.C. 3501–3520), OMB approved these information collection requirements. The table provides the following information for each of these requirements approved by OMB: The title of the **Federal Register** notice; the **Federal Register** citation (date, volume, and leading page); OSHA docket number; OMB's Control Number; and the new expiration date.

In accordance with 5 CFR 1320.5(b), an agency cannot conduct, sponsor, or require a response to a collection of information unless the collection displays a valid OMB control number and the agency informs respondents that they need not respond to the collection of information.

Title of the information collection request	Date of **Federal Register** publication, **Federal Register** citation, and OSHA Docket No.	OMB control No.	Expiration date
1,3-Butadiene Standard (29 CFR 1910.1051)	December 27, 2019, 84 FR 71477, Docket No. OSHA–2012–0027.	1218–0170	07/31/2023
4,4'-Methylenedianiline for General Industry (29 CFR 1910.1050).	November 12, 2019, 84 FR 61077, Docket No. OSHA–2012–0040.	1218–0184	07/31/3023
Access to Employee Exposure and Medical Records (29 CFR 1910.1020).	February 2, 2020, 85 FR 6580, Docket No. OSHA–2009–0043.	1218–0065	10/31/2023
Aerial Lifts Standard (29 CFR 1926.453)	February 26, 2020, 85 FR 11110, Docket No. OSHA–2009–0045.	1218–0216	10/31/2023
Asbestos in General Industry Standard (29 CFR 1910.1001).	February 6, 2020, 85 FR 6979, Docket No. OSHA–2010–0018.	1218–0133	07/31/2023
Asbestos in Shipyards Standard (29 CFR 1915.1001)	November 29, 2019, 84 FR 65849, Docket No. OSHA–2012–0009.	1218–0195	07/31/2023
Benzene (29 CFR 1910.1028)	November 29, 2019, 84 FR 65848, Docket No. OSHA–2013–0008.	1218–0129	07/31/2023
Cadmium in Construction Standard (29 CFR 1926.1127).	November 29, 2019, 84 FR 65844, Docket No. OSHA–2012–0004.	1218–0186	06/30/2023
Construction Fall Protection Systems Criteria, Practices, and Training Requirements.	February 26, 2020, 85 FR 11118, Docket No. OSHA–2010–0008.	1218–0197	10/31/2023

Title of the information collection request	Date of **Federal Register** publication, **Federal Register** citation, and OSHA Docket No.	OMB control No.	Expiration date
Crawler, Locomotive, and Truck Cranes Standard (29 CFR 1910.180).	February 26, 2020, 85 FR 11112, Docket No. OSHA–2010–0015.	1218–0221	10/31/2023
Derricks Standard (29 CFR 1910.181)	October 1, 2019, 84 FR 52143, Docket No. OSHA–2010–0016.	1218–0222	07/31/2023
Ethylene Oxide Standard (29 CFR 1910.1047)	May 27, 2020, 85 FR 31812, Docket No. OSHA–2009–0035.	1218–0108	12/31/2023
Formaldehyde Standard (29 CFR 1910.1048)	February 26, 2020, 85 FR 11107, Docket No. OSHA–2009–0041.	1218–0145	10/31/2023
Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard (29 CFR 1910.120).	November 8, 2019, 84 FR 60455, Docket No. OSHA–2011–0862.	1218–0202	12/31/2023
Hexavalent Chromium Standards for General Industry (29 CFR 1910.1026), Shipyard Employment (29 CFR 1915.1026), and Construction (29 CFR 1926.1126).	October 25, 2019, 84 FR 57488, Docket No. OSHA–2012–0034.	1218–0252	06/30/2023
Lead in General Industry Standard (29 CFR 1910.1025).	August 27, 2019, 84 FR 44931, Docket No. OSHA–2012–0013.	1218–0092	04/30/2023
Logging Operations Standard (29 CFR 1910.266)	April 24, 2020, 85 FR 23068, Docket No. OSHA–2010–0041.	1218–0198	12/31/2023
Manlifts Standard (29 CFR 1910.68(e))	June 2, 2020, 85 FR 33734, Docket No. OSHA–2010–0051.	1218–0226	12/31/2023
Occupational Safety and Health Administration Conflict of Interest and Disclosure Form.	December 23, 2019, 84 FR 70572, Docket No. OSHA–2009–0042.	1218–0255	10/31/2023
Presence Sensing Device Initiation (PSDI) Standard (29 CFR 1910.217(h)).	April 9, 2020, 85 FR 19961, Docket No. OSHA–2010–0009.	1218–0143	10/31/2023
Respirable Crystalline Silica Standards for General Industry, Maritime (29 CFR 1910.1053) and Construction (29 CFR 1926.1053).	October 1, 2019, 84 FR 52144, Docket No. OSHA–2019–0002.	1218–0266	06/30/2023
Rigging Equipment for Material Handling (29 CFR 1926.251).	June 24, 2020, 85 FR 37960, Docker No. OSHA–2010–0038.	1218–0233	12/31/2023
Special Dipping and Coating Operations (Dip Tanks) (29 CFR 1910.126(g)(4)).	November 8, 2019, 84 FR 60454, Docket No. OSHA–2010–0020.	1218–0237	06/30/2023
Standard on 4,4′-Methylenedianiline for General Industry (29 CFR 1910.1050).	November 12, 2019, 84 FR 61077, Docket No. OSHA–2012–0040.	1218–0184	07/31/2023
Student Data Form	December 27, 2019, 84 FR 71478, Docket No. OSHA–2010–0022.	1218–0172	07/31/2023
Walking-Working Surfaces Standard (29 CFR part 1910, subpart D).	July 25, 2019, 84 FR 35888, Docket No. OSHA–2013–0002.	1218–0199	07/31/2023
Welding, Cutting, and Brazing Standard (29 CFR part 1910, subpart Q).	November 21, 2019, 84 FR 64348, Docket No. OSHA–2010–0037.	1218–0207	07/31/2023

Authority and Signature

Amanda L. Edens, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on February 11, 2021.

Amanda L. Edens,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–03654 Filed 2–22–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0025]

UL LLC: Applications for Expansion of Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the applications of UL LLC, for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the applications. Additionally, OSHA proposes to add eight test standards to the NRTL Program's list of appropriate test standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 10, 2021.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

OSHA will place comments and requests for a hearing, including personal information, in the public docket, which will be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to

read or download through this website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2009–0025). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Extension of comment period: Submit requests for an extension of the comment period on or before March 10, 2021 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that UL LLC (UL) is applying for an expansion of their current recognition as a NRTL. UL requests the addition of fourteen test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including UL, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

UL currently has thirteen facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, Illinois 60062. A complete list of UL sites recognized by OSHA is available at *https://www.osha.gov/dts/otpca/nrtl/ul.html.*

II. General Background on the Applications

UL submitted three applications to OSHA to expand their recognition as a NRTL. The first application was received on May 31, 2019 (OSHA–2009–0025–0032), the second application was received on July 2, 2019 (OSHA–2009–0025–0033), and the third application was received on April 15, 2020 (OSHA–2009–0025–0034). The expansion applications would add fourteen additional test standards to UL's NRTL recognition. OSHA staff performed a detailed analysis of the application packets and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to these applications.

Table 1 lists the appropriate test standards found in UL's applications for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN UL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 6141	Standard for Wind Turbines Permitting Entry of Personnel.
UL 2524	In-Building 2-Way Emergency Radio Communication Enhancement Systems.
UL 61010–2–020	Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–020: Particular Requirements for Laboratory Centrifuges.
UL 61010–2–81	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–81: Particular Requirements for Automatic and Semi-Automatic Laboratory Equipment for Analysis and Other Purposes.
UL 61010–2–101	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–101: Particular Requirements for In Vitro Diagnostic (IVD) Medical Equipment.
UL 9540	Standard for Energy Storage Systems and Equipment.
UL 498C *	Flatiron and Appliance Plugs.
UL 489B *	Molded-Case Circuit Breakers, Molded-Case Switches, and Circuit-Breaker Enclosures For Use With Photovoltaic (PV) Systems.
UL 60320–1 *	Appliance Couplers for Household and Similar General Purposes—Part 1: General Requirements.
UL 4248–19 *	Fuseholders—Part 19: Photovoltaic Fuseholders.
UL 2231–1 *	Personnel Protection Systems for Electric Vehicle (EV) Supply Circuits: General Requirements.
UL 2231–2 *	Personnel Protection Systems for Electric Vehicle (EV) Supply Circuits: Particular Requirements for Protection Devices for Use in Charging Systems.
UL 879A *	LED Sign and Sign Refrofit Kits.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN UL'S NRTL SCOPE OF RECOGNITION—Continued

Test standard	Test standard title
UL 60335–2–89 * ...	Household and Similar Electrical Appliances—Safety—Part 2–89: Particular Requirements for Commercial Refrigerating Appliances with an Incorporated or Remote Refrigerant Unit or Compressor.

* Represents the standards that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.

III. Proposal To Add New Test Standards to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to: (1) Verify it represents a product category for which OSHA requires certification by a NRTL; (2) verify the document represents a product and not a component; and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) Monitoring notifications issued by certain Standards Development Organizations; (2) reviewing applications by NRTLs or applicants seeking recognition to include new test standard in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes to add eight new test standards to the NRTL Program's list of appropriate test standards. Table 2, below, lists the test standards that are new to the NRTL Program. OSHA preliminarily determined that these test standards are appropriate test standards and proposes to include them in the NRTL Program's list of appropriate test standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 498C	Flatiron and Appliance Plugs.
UL 489B	Molded-Case Circuit Breakers, Molded-Case Switches, and Circuit-Breaker Enclosures For Use With Photovoltaic (PV) Systems.
UL 60320–1	Appliance Couplers for Household and Similar General Purposes—Part 1: General Requirements.
UL 4248–19	Fuseholders—Part 19: Photovoltaic Fuseholders.
UL 2231–1	Personnel Protection Systems for Electric Vehicle (EV) Supply Circuits: General Requirements.
UL 2231–2	Personnel Protection Systems for Electric Vehicle (EV) Supply Circuits: Particular Requirements for Protection Devices for Use in Charging Systems.
UL 879A	LED Sign and Sign Refrofit Kits.
UL 60335–2–89	Household and Similar Electrical Appliances—Safety—Part 2–89: Particular Requirements for Commercial Refrigerating Appliances with an Incorporated or Remote Refrigerant Unit or Compressor.

IV. Preliminary Findings on the Applications

UL submitted acceptable applications for expansion of the scope of recognition. OSHA's review of the application files, and pertinent documentation, indicate that UL can meet the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of these fourteen test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of UL's applications.

OSHA welcomes public comment as to whether UL meets the requirements of 29 CFR 1910.7 for expansion of the recognition as a NRTL. OSHA additionally welcomes comments on the proposal to add eight additional test standards to the NRTL Program's list of appropriate test standards. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2009–0025.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant UL's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

Amanda L. Edens, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's

Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1905.11.

Signed at Washington, DC, on February 11, 2021.

Amanda L. Edens,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–03653 Filed 2–22–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0026]

Bureau Veritas Consumer Products Services, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Bureau Veritas Consumer Products Services, Inc. for expansion of the scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 10, 2021.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

OSHA will place comments and requests for a hearing, including personal information, in the public docket, which will be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2009–0026). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.*

Extension of comment period: Submit requests for an extension of the comment period on or before March 10, 2021 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that Bureau Veritas Consumer Product Services, Inc. (BVCPS), is applying for expansion of recognition as a NRTL. BVCPS requests the addition of two recognized testing sites and twenty-two test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including BVCPS, which details the NRTL's scope of recognition. These pages are available from the OSHA website at: *http://www.osha.gov/dts/otpca/nrtl/index.html.*

BVCPS currently has one facility (site) recognized by OSHA for product testing and certification, with headquarters located at: Bureau Veritas Consumer Products Services, Inc., One Distribution Circle, Suite #1, Littleton, MA 01460. A complete list of BVCPS's scope of recognition is available at: *https://www.osha.gov/dts/otpca/nrtl/csl.html.*

II. General Background on the Application

BVCPS submitted an application, dated June 28, 2018 (OSHA–2009–0026–0084), to expand recognition to include the addition of two recognized testing and certification sites. BVCPS amended this application on May 20, 2020, to include the addition of twenty-two recognized test standards. The first site is located at: Bureau Veritas Consumer Products Services (H.K.) Ltd. Taoyuan Branch, No. 19, Hwa Ya 2nd Rd., Wen Hwa Vil., Kewi Shan Dist., Taoyuan City, Taiwan. The second site is located at: LCIE China Company Limited, Building 4, No. 518, Xin Zhuan Road, CaoHejiing Songjiang High-Tech Park, Shanghai, 201612 China. One of the standards requested in the application, UL 962, is already included in BVCPS's current NRTL scope of recognition and will not be considered in this notice. OSHA staff performed on-site reviews of BVCPS's Shanghai China testing facility on February 27–28, 2019, and BVCPS Taoyuan Branch's testing facility on March 5–6, 2019, in which the assessors found some non-conformances with the requirements of 29 CFR 1910.7. BVCPS addressed these non-conformances satisfactorily, and OSHA has made a preliminary decision to approve the application.

Table 1 below lists the appropriate test standards found in BVCPS's application to expand BVCPS's NRTL scope of recognition for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN BVCPS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1081	Electric Swimming Pools Pumps, Filters and Chlorinators.
UL 1450	Motor-Operated Air Compressors, Vacuum Pumps and Painting Equipment.
UL 1563	Electric Spas, Equipment Assemblies and Associated Equipment.
UL 60335–2–24	Household Refrigerators and Freezers.
UL 471	Commercial Refrigerators and Freezers.
UL 484	Room Air Conditioners.
UL 60335–2–40	Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electrical Heat Pumps, Air-Conditioners and Dehumidifiers.
UL 778	Motor-Operated Water Pumps.
UL 859	Personal Grooming Appliance.
UL 867	Electrostatic Air Cleaners.
UL 1598C	Light Emitting Diode (LED) Retrofit Luminaire Conversion Kit.
UL 1838	Low Voltage Landscape Lighting Systems.
UL 2108	Low Voltage Lighting Systems.
UL 60745–2–13	Particular Requirements for Chain Saws.
UL 60745–2–14	Particular Requirements for Planers.
UL 60745–2–15	Particular Requirements Hedge Trimmers.
UL 60745–2–16	Particular Requirements for Tackers.
UL 60745–2–17	Particular Requirements for Routers and Trimmers.
UL 60745–2–22	Particular Requirements for Cut-Off Machines.
UL 60745–2–8	Particular Requirements for Shears and Nibblers.
UL 60745–2–9	Particular Requirements for Tappers.

III. Preliminary Findings on the Application

BVCPS submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file and pertinent documentation indicates BVCPS can meet the requirements prescribed by 29 CFR 1910.7 for expanding recognition to include the addition of the twenty-one test standards for NRTL testing and certification, as well as the two testing sites listed above. This preliminary finding does not constitute an interim or temporary approval of BVCPS's application.

OSHA welcomes public comment as to whether BVCPS meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2009–0026.

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, the agency will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant BVCPS's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

Amanda L. Edens, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1905.11.

Signed at Washington, DC, on February 12, 2021.

Amanda L. Edens,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–03650 Filed 2–22–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0030]

IAPMO Ventures, LLC dba IAPMO EGS: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of IAPMO Ventures, LLC dba IAPMO EGS for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 10, 2021.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments,

electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

OSHA will place comments and requests for a hearing, including personal information, in the public docket, which will be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2013–0030). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Extension of comment period: Submit requests for an extension of the comment period on or before March 10, 2021 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, phone: (202) 693–1999 or email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, OSHA Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, U.S. Department of Labor, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that IAPMO Ventures, LLC dba IAPMO EGS (IAPMO) is applying for an expansion of current recognition as a NRTL. IAPMO requests the addition of six test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including IAPMO, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

IAPMO currently has one facility (site) recognized by OSHA for product testing and certification, with the headquarters located at: IAPMO Ventures, LLC dba IAPMO EGS, 5001 East Philadelphia Street, Ontario, California 91761. A complete list of IAPMO's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/iapmo.html.*

II. General Background on the Application

IAPMO submitted two applications to OSHA to expand their NRTL recognition. The first application to add one standard to the NRTL scope of recognition was received on September 29, 2019 (OSHA–2010–0030–0014), and this application was amended on November 25, 2020 (OSHA–2010–0030–0015), to add five additional standards. The applications would add six additional test standards to the NRTL scope of recognition. OSHA staff performed a detailed analysis of the application packets and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to these applications.

Table 1 lists the appropriate test standards found in IAPMO's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN IAPMO'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 197	Standard for Commercial Electric Cooking Appliances.
UL 962	Standard for Household and Commercial Furnishings.
UL 676	Standard for Underwater Luminaires and Submersible Junction Boxes.
UL 73	Standard for Safety Motor-Operated Appliances.
UL 763	Standard for Commercial Safety for Motor-Operated Commercial Food Preparing Machines.
UL 399	Drinking Water Coolers.

III. Preliminary Findings on the Application

IAPMO submitted acceptable applications for expansion of the scope of recognition. OSHA's review of the application files, and pertinent documentation, indicate that IAPMO can meet the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the six test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of IAPMO's applications.

OSHA welcomes public comment as to whether IAPMO meets the requirements of 29 CFR 1910.7 for expansion of the recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2010–0030.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant IAPMO's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

IV. Authority and Signature

Amanda L. Edens, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1905.11.

Signed at Washington, DC, on February 11, 2021.

Amanda L. Edens,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–03652 Filed 2–22–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0042]

CSA Group Testing & Certification Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of CSA Group Testing & Certification Inc. for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 10, 2021.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

OSHA will place comments and requests for a hearing, including personal information, in the public docket, which will be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2006–0042). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Extension of comment period: Submit requests for an extension of the comment period on or before March 10, 2021 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor by phone (202) 693–1999 or email *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor by phone (202) 693–2110 or email *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that CSA Group Testing & Certification Inc. (CSA) is applying for expansion of their current recognition as a NRTL. CSA requests the addition of four test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is

not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes an application by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A, 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including CSA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CSA currently has seven facilities (sites) recognized by OSHA for product testing and certification. The headquarters location is Canadian Standards Association, 178 Rexdale Boulevard, Etobicoke, Ontario, M9W 1R3, Canada. A complete list of CSA's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/csa.html.*

II. General Background on the Application

CSA submitted an application, dated July 17, 2019 (OSHA–2006–0042–0018), to expand their recognition to include four additional test standards. OSHA staff performed detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in CSA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN CSA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 2271	Standard for Batteries for Use in Light Electric Vehicle (LEV) Applications.
UL 9540	Standard for Energy Storage Systems and Equipment.
UL 2054	Standard for Household and Commercial Batteries.
UL 1973	Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail (LER) Applications.

III. Preliminary Findings on the Application

CSA submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file and pertinent documentation indicates that CSA can meet the requirements prescribed by 29 CFR 1910.7 for expanding their recognition to include the addition of the four test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of CSA's application.

OSHA welcomes public comment as to whether CSA meets the requirements of 29 CFR 1910.7 for expansion of the recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0042.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health as to whether to grant CSA's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

IV. Authority and Signature

Amanda L. Edens, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1905.11.

Signed at Washington, DC, on February 11, 2021.

Amanda L. Edens,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–03649 Filed 2–22–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0042]

CSA Group Testing & Certification Inc.: Application for Expansion of Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of CSA Group Testing & Certification Inc. for expansion of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application. Additionally, OSHA proposes to add four new test standards to the NRTL program's list of appropriate test standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before March 10, 2021.

ADDRESSES: Comments may be submitted as follows:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal

eRulemaking Portal. Follow the online instructions for submitting comments.

OSHA will place comments and requests for a hearing, including personal information, in the public docket, which will be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2006–0042). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data. For further information on submitting comments, see the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor by phone (202) 693–1999 or email *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor by phone (202) 693–2110 or email *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that CSA Group Testing & Certification Inc. (CSA) is applying for expansion of their current recognition as a NRTL. CSA requests the addition of twenty-two test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes an application by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A, 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides the preliminary finding. In the second notice, the agency provides the final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including CSA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CSA currently has seven facilities (sites) recognized by OSHA for product testing and certification. The headquarters location is Canadian Standards Association, 178 Rexdale Boulevard, Etobicoke, Ontario, M9W 1R3, Canada. A complete list of CSA's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/csa.html.*

II. General Background on the Application

CSA submitted an application, dated January 24, 2018 (OSHA–2006–0042–0019), to expand their recognition to include twenty-two additional test standards. OSHA staff performed detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in CSA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN CSA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 61010–2–030 ...	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–030: Particular Requirements for Testing and Measuring Circuits.
UL 61010–2–032 *	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–032: Particular Requirements for Hand-Held and Hand-Manipulated Current Sensors for Electrical Test and Measurement.
UL 61010–2–033 *	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–033: Particular Requirements for Hand-Held Multimeters for Domestic and Professional Use, Capable of Measuring Mains Voltage.
UL 61010–2–040 *	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–040: Particular Requirements for Sterilizers and Washer-Disinfectors Used to Treat Medical Materials.
UL 61010–2–081 ...	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–081: Particular Requirements for Automatic and Semi-Automatic Laboratory Equipment for Analysis and Other Purposes.
UL 61010–2–101 ...	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–101: Particular Requirements for In Vitro Diagnostic (IVD) Medical Equipment.
UL 61010–2–201 *	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–201: Particular Requirements for Control Equipment.
UL 61010–031	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 031: Safety Requirements for Hand-Held and Hand-Manipulated Probe Assemblies for Electrical Test and Measurement.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN CSA'S NRTL SCOPE OF RECOGNITION—Continued

Test standard	Test standard title
UL 62841–1	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 1: General Requirements.
UL 62841–2–2	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–2: Particular Requirements for Hand-Held Screwdrivers and Impact Wrenches.
UL 62841–2–4	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–4: Particular Requirements for Hand-Held Sanders and Polishers Other than Disc Type.
UL 62841–2–5	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Law and Garden Machinery—Safety—Part 2–5: Particular Requirements for Hand-Held Circular Saws.
UL 62841–2–8	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–8: Particular Requirements for Hand-Held Shears and Nibblers.
UL 62841–2–9	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–9: Particular Requirements for Hand-Held Tappers and Threaders.
UL 62841–2–14	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 2–14: Particular Requirements for Hand-Held Planers.
UL 62841–3–1	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–1: Particular Requirements for Transportable Table Saws.
UL 62841–3–6	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–6: Particular Requirements for Transportable Diamond Drills with Liquid System.
UL 62841–3–9	Standard for Electric Motor-Operated Hand-Held Tools, and Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–9: Particular Requirement for Transportable Mitre Saws.
UL 62841–3–10	Standard for Electric Motor-Operated Hand-Held Tools, Transportable Tools and Lawn and Garden Machinery—Safety—Part 3–10: Particular Requirement for Transportable Cut-Off Machines.
UL 60950–22	Information Technology Equipment—Safety—Part 22: Equipment to be Installed Outdoors.
UL 347A	Medium Voltage Power Conversion Equipment.
UL 8750	Light Emitting Diode (LED) Equipment for Use in Lighting Products.

* Represents the standards that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.

III. Proposal To Add New Test Standards to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to: (1) Verify it represents a product category for which OSHA requires certification by a NRTL; (2) verify the document represents an end product and not a component; and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) Monitoring notifications issued by certain Standards Development Organizations; (2) reviewing applications by NRTLs or applicants seeking recognition to include new test standards in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes to add four new test standards to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standards that are new to the NRTL Program. OSHA preliminarily determined that these test standards are appropriate test standards and proposes to include them in the NRTL Program's List of Appropriate Test Standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—TEST STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 61010–2–032	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–032: Particular Requirements for Hand-Held and Hand-Manipulated Current Sensors for Electrical Test and Measurement.
UL 61010–2–033	Standard for Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–033: Particular Requirements for Hand-Held Multimeters for Domestic and Professional Use, Capable of Measuring Mains Voltage.
UL 61010–2–040	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–040: Particular Requirements for Sterilizers and Washer-Disinfectors Used to Treat Medical Materials.
UL 61010–2–201	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–201: Particular Requirements for Control Equipment.

IV. Preliminary Findings on the Application

CSA submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file and pertinent documentation indicates that CSA can meet the requirements prescribed by 29 CFR 1910.7 for expanding their recognition to include the addition of the twenty-two test standards for NRTL testing and certification listed above. This preliminary finding does not

constitute an interim or temporary approval of CSA's application.

OSHA welcomes public comment as to whether CSA meets the requirements of 29 CFR 1910.7 for expansion of the recognition as a NRTL. OSHA additionally welcomes comments on the proposal to add four additional test standards to the NRTL Program's list of appropriate test standards. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0042.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health as to whether to grant CSA's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

IV. Authority and Signature

Amanda L. Edens, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW, Washington, DC 20210, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to Section 29 U.S.C. 655(6)(d), Secretary of Labor's Order No. 8–2020 (85 FR 58393; Sept. 18, 2020), and 29 CFR 1905.11.

Signed at Washington, DC, on February 11, 2021.

Amanda L. Edens,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–03651 Filed 2–22–21; 8:45 am]

BILLING CODE 4510–26–P

OFFICE OF MANAGEMENT AND BUDGET

Calendar Year 2020 Cost of Outpatient Medical, Dental, and Cosmetic Surgery Services Furnished by the Department of Defense Medical Treatment Facilities; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

AGENCY: Office of Management and Budget (OMB), Executive Office of the President.

ACTION: Notice.

By virtue of the authority vested in the President by 42 U.S.C. 2652, the rates referenced below are hereby established. These rates are for use in connection with the recovery from tortiously liable third persons for the outpatient medical, dental and cosmetic surgery services furnished by military treatment facilities through the Department of Defense. They are the same rates as the outpatient third party reimbursement rates that were set on July 1, 2020 for billing medical insurers, but require a different approval authority for the purpose of billing for tort liability. The rates were established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The Calendar Year 2020 outpatient medical, dental and cosmetic surgery services referenced are effective for billing tort liability upon publication of this notice in the **Federal Register** and will remain in effect until further notice. Previously published inpatient rates remain in effect until further notice. Pharmacy rates are updated periodically. A full disclosure of the rates is posted at *Health.mil* website in the Defense Health Agency Uniform Business Office section (*http://health.mil/Military-Health-Topics/Business-Support/Uniform-Business-Office/Billing/Medical-Affirmative-Claims*).

Robert S. Fairweather,

Deputy Associate Director, International Affairs Division, Acting Director.

[FR Doc. 2021–03634 Filed 2–22–21; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

Fiscal Year 2020 Cost of Inpatient Hospital and Medical Care Treatment Furnished by the Department of Defense Medical Treatment Facilities; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

By virtue of the authority vested in the President by 42 U.S.C. 2652, the rates referenced below are hereby established. These rates are for use in connection with the recovery from tortiously liable third persons for the inpatient medical services furnished by military treatment facilities through the Department of Defense. They are the same rates as the inpatient third party reimbursement rates that were set on October 1, 2019 for billing medical insurers, but require a different approval authority for the purpose of billing for tort liability. The rates were established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The fiscal year 2020 inpatient medical rates referenced are effective for billing tort liability upon publication of this notice in the **Federal Register** and will remain in effect until further notice. Previously published outpatient medical and dental, and cosmetic surgery rates remain in effect until further notice. Pharmacy rates are updated periodically. A full disclosure of the rates is posted at *Health.mil* website in the Defense Health Agency Uniform Business Office section (*http://health.mil/Military-Health-Topics/Business-Support/Uniform-Business-Office/Billing/Medical-Affirmative-Claims*).

Robert S. Fairweather,

Acting Director.

[FR Doc. 2021–03633 Filed 2–22–21; 8:45 am]

BILLING CODE 3110–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0210]

Information Collection: NRC Form 64, Travel Voucher

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, NRC Form 64, ''Travel Voucher.''

DATES: Submit comments by March 25, 2021. 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–2020–0210 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–2020–0210. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2020–0210 on this website.
- *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML20261H559. The supporting statement is available in ADAMS under Accession No. ML21011A150.
- *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 or 301–415–4737, 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–2020–0210 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. 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 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, NRC Form 64, Travel Voucher (Part 1); NRC Form 64A, Travel Voucher (Part 2). 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 October 16, 2020, 85 FR 65879.

1. *The title of the information collection:* NRC Form 64, Travel Voucher (Part 1); NRC Form 64A, Travel Voucher (Part 2).
2. *OMB approval number:* 3150–0192.
3. *Type of submission:* Revision.
4. *The form number, if applicable:* NRC Form 64.
5. *How often the collection is required or requested:* On occasion, to apply for reimbursement for travel.
6. *Who will be required or asked to respond:* Agreement State personnel, State Liaison Officers, and Tribal representatives traveling in the course of conducting business with the NRC. Travelers conduct reviews and inspections and attend NRC-sponsored training.
7. *The estimated number of annual responses:* 500.
8. *The estimated number of annual respondents:* 500.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 500.
10. *Abstract:* Agreement State personnel traveling to participate in NRC-sponsored training, participate with the NRC Integrated Materials Performance Evaluation Program, and other business with the NRC, must file travel vouchers on NRC Form 64 in order to be reimbursed for their travel expenses. The information collected includes the name, address, the amount to be reimbursed and the traveler's signature. Travel expenses that are reimbursed are confined to those expenses essential to the transaction of official business for an approved trip.

Dated: February 17, 2021.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2021–03551 Filed 2–22–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0049]

Monthly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Monthly notice.

SUMMARY: Pursuant to section 189.a.(2) of the Atomic Energy Act of 1954, as

amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular monthly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person. This monthly notice includes all amendments issued, or proposed to be issued, from January 8, 2021, to February 4, 2021. The last monthly notice was published on January 26, 2021.

DATES: Comments must be filed by March 25, 2021. A request for a hearing or petitions for leave to intervene must be filed by April 26, 2021.

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–2021–0049. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@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: Janet Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1384, email: *Janet.Burkhardt@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0049, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0049.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *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 or 301–415–4737, 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.regulation.gov*). Please include Docket ID *NRC–2021–0049*, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown below, the Commission finds that the licensees' analyses provided, consistent with title 10 of *the Code of Federal Regulations* (10 CFR) section 50.91, are sufficient to support the proposed determinations that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take action on any amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for

leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions that the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of NSHC, the Commission will make a final determination on the issue of NSHC. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a petition is submitted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC issued digital ID certificate). Based upon this information, the Secretary will establish an electronic

docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The table below provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT REQUEST(S)

Dominion Energy Nuclear Connecticut, Inc.; Millstone Power Station, Unit No. 3; New London County, CT	
Docket No(s)	50–423.
Application date	December 8, 2020.
ADAMS Accession No	ML20343A243.
Location in Application of NSHC	Pages 5–8 of Attachment 1.
Brief Description of Amendment(s)	The proposed license amendment would revise the Millstone Power Station Unit No. 3 Technical Specification (TS) 2.1.1, ''Safety Limit, Reactor Core,'' Safety Limit 2.1.1.2 to reflect the peak fuel centerline melt temperature specified in Topical Report WCAP–17642–P–A, Revision 1, ''Westinghouse Performance Analysis and Design Model (PAD5),'' dated November 2017 (non-proprietary version available in ADAMS under Accession No. ML17338A396).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Lillian M. Cuoco, Esq., Senior Counsel, Dominion Energy, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.
NRC Project Manager, Telephone Number	Richard Guzman, 301–415–1030.

Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Perry Nuclear Power Plant, Unit 1; Lake County, OH	
Docket No(s)	50–440.
Application date	December 28, 2020.

LICENSE AMENDMENT REQUEST(S)—Continued

ADAMS Accession No	ML20365A028.
Location in Application of NSHC	Pages 31–33 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendment would revise the Perry Nuclear Power Plant emergency plan to eliminate on-shift staffing positions, increase emergency response facility (ERF) augmentation times, revise ERF staffing positions, revise facility position titles to be consistent with the Energy Harbor Nuclear Corp. fleet, and eliminate information from the emergency plan contained in implementing procedures and instructions.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Rick Giannantonio, General Counsel, Energy Harbor Nuclear Corp., Mail Stop A–GO–15, 76 South Main Street, Akron, OH 44308.
NRC Project Manager, Telephone Number	Scott Wall, 301–415–2855.

Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Perry Nuclear Power Plant, Unit 1; Lake County, OH

Docket No(s)	50–440.
Application date	December 14, 2020.
ADAMS Accession No	ML20350B499.
Location in Application of NSHC	Pages 12–13 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendment would modify technical specification requirements related to actions for inoperable residual heat removal (RHR) shutdown cooling subsystems. The changes are similar to Technical Specifications Task Force (TSTF) Traveler TSTF–566–A, ''Revise Actions for Inoperable RHR Shutdown Cooling Subsystems,'' that was approved on February 21, 2019 (ADAMS Accession No. ML19028A287), but also incorporate TSTF–580, ''Provide Exception from Entering Mode 4 with no Operable RHR Shutdown Cooling,'' that was submitted to the NRC on August 7, 2020 (ADAMS Accession No. ML20181A221).
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Rick Giannantonio, General Counsel, Energy Harbor Nuclear Corp., Mail Stop A–GO–15, 76 South Main Street, Akron, OH 44308.
NRC Project Manager, Telephone Number	Scott Wall, 301–415–2855.

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 2; Pope County, AR

Docket No(s)	50–368.
Application date	November 17, 2020.
ADAMS Accession No	ML20322A426.
Location in Application of NSHC	Pages 28–30 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendment would modify the Arkansas Nuclear One, Unit 2 technical specifications (TS) to incorporate the provisions of Limiting Condition for Operation (LCO) 3.0.6 of the Improved Standard Technical Specifications, which provide the actions to be taken when the inoperability of a support system results in the inoperability of a related supported system(s). The proposed change would also add a new Safety Function Determination Program to the Administrative Controls section of the TS to ensure that a loss of safety function is detected and appropriate actions are taken when using the provisions of the LCO.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.
NRC Project Manager, Telephone Number	Thomas Wengert, 301–415–4037.

Exelon FitzPatrick, LLC and Exelon Generation Company, LLC; James A FitzPatrick Nuclear Power Plant; LLC; Oswego County, NY

Docket No(s)	50–333.
Application date	December 11, 2020.
ADAMS Accession No	ML20346A025.
Location in Application of NSHC	Pages 4–6 of Attachment 1.
Brief Description of Amendment(s)	The proposed amendment would revise the technical specifications (TS) to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–545, Revision 3, ''TS Inservice Testing Program Removal & Clarify SR [Surveillance Requirement] Usage Rule Application to Section 5.5 Testing.'' Specifically, the amendment would remove TS 5.5.7, ''Inservice Testing Program,'' add a new defined term, ''INSERVICE TESTING PROGRAM,'' to TS 1.1, ''Definitions,'' and make corresponding edits throughout the TS.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Donald P. Ferraro, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.
NRC Project Manager, Telephone Number	Justin Poole, 301–415–2048.

Exelon Generation Company, LLC; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Calvert County, MD

Docket No(s)	50–317, 50–318.
Application date	November 24, 2020.
ADAMS Accession No	ML20329A334.
Location in Application of NSHC	Pages 2–5 of Attachment 1.

LICENSE AMENDMENT REQUEST(S)—Continued

Brief Description of Amendment(s)	The proposed amendment would adopt Technical Specifications Task Force (TSTF) Traveler TSTF–567, Revision 1, ''Add Containment Sump TS [Technical Specification] to Address GSI [Generic Safety Issue]-191 Issues.'' Specifically, the amendment request proposes to (1) add a new TS section for the containment emergency sump, (2) move the surveillance requirement for containment emergency sump, and (3) revise the safety function determination program description to clarify its application when a supported system is made inoperable by the inoperability of a single TS support system.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.
NRC Project Manager, Telephone Number	Michael L. Marshall, Jr., 301–415–2871.

Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Docket No(s)	50–390, 50–391.
Application date	December 15, 2020.
ADAMS Accession No	ML20350B764.
Location in Application of NSHC	Pages E7–E8 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would revise Watts Bar Nuclear Plant, Units 1 and 2 Technical Specification Surveillance Requirement 3.6.15.4 to revise the shield building annulus pressure requirement, replace the inleakage requirement with a time requirement, and delete the shield building inleakage requirement of less than or equal to 250 cubic feet per minute.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Sherry Quirk, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Kimberly Green, 301–415–1627.

Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX

Docket No(s)	50–445, 50–446.
Application date	August 31, 2020, as supplemented by letter dated January 27, 2021.
ADAMS Accession No	ML20244A338, ML21027A249.
Location in Application of NSHC	Pages 2–4 of the Enclosure.
Brief Description of Amendment(s)	The proposed amendments would adopt Technical Specifications Task Force (TSTF) Traveler TSTF–567, ''Add Containment Sump TS [Technical Specification] to Address GSI [Generic Safety Issue]-191 Issues.'' The amendments would revise the TS to address the condition of the containment sump made inoperable due to containment accident generated and transported debris exceeding the analyzed limits.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Timothy P. Matthews, Esq., Morgan, Lewis and Bockius, 1111 Pennsylvania Avenue NW, Washington, DC 20004.
NRC Project Manager, Telephone Number	Dennis Galvin, 301–415–6256.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated in the safety evaluation for each amendment.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to each action, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the table below. The safety evaluation will provide the ADAMS accession numbers for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCE(S)

Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC

Docket No(s)	50–269, 50–270, 50–287.
Amendment Date	January 26, 2021.
ADAMS Accession No	ML20335A001.

LICENSE AMENDMENT ISSUANCE(S)—Continued

Amendment No(s)	420 (Unit 1), 422 (Unit 2), and 421 (Unit 3).
Brief Description of Amendment(s)	The amendments revised the Oconee renewed facility operating licenses and technical specifications to implement a measurement uncertainty recapture power uprate. Specifically, the amendments authorized an increase in the maximum licensed rated thermal power from 2,568 megawatts thermal (MWt) to 2,610 MWt, which is an increase of approximately 1.64 percent.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Duke Energy Progress, LLC; Brunswick Steam Electric Plant, Units 1 and 2; Brunswick County, NC

Docket No(s)	50–325, 50–324.
Amendment Date	January 26, 2021.
ADAMS Accession No	ML20253A321.
Amendment No(s)	302 (Unit 1) and 330 (Unit 2).
Brief Description of Amendment(s)	The amendments revised Technical Specification (TS) 3.6.3.1, ''Primary Containment Oxygen Concentration,'' and present the requirements in a manner more consistent with the Standard Technical Specifications format and content, consistent with Technical Specifications Task Force (TSTF) Traveler TSTF–568, Revision 2, ''Revise Applicability of BWR [Boiling-Water Reactor]/4 TS 3.6.2.5 and TS 3.6.3.2.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Energy Harbor Nuclear Corp. and Energy Harbor Nuclear Generation LLC; Beaver Valley Power Station, Units 1 and 2; Beaver County, PA

Docket No(s)	50–334, 50–412.
Amendment Date	January 28, 2021.
ADAMS Accession No	ML20345A236.
Amendment No(s)	307 (Unit 1) and 197 (Unit 2).
Brief Description of Amendment(s)	The amendments revised Technical Specification (TS) 3.5.2, ''ECCS [Emergency Core Cooling System]—Operating,'' and TS 3.5.3, ''ECCS—Shutdown.'' The amendments also added new TS 3.6.9, ''Containment Sump,'' to Section 3.6, ''Containment Systems.'' The changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF–567, Revision 1, ''Add Containment Sump TS to Address GSI [Generic Safety Issue]-191 Issues.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Energy Northwest; Columbia Generating Station; Benton County, WA

Docket No(s)	50–397.
Amendment Date	January 25, 2021.
ADAMS Accession No	ML21005A178.
Amendment No(s)	263.
Brief Description of Amendment(s)	The amendment revised the Columbia Generating Station technical specification actions applicable when a residual heat removal (RHR) shutdown cooling subsystem is inoperable. The changes are based on Technical Specifications Task Force (TSTF) Traveler TSTF–566, Revision 0, ''Revise Actions for Inoperable RHR Shutdown Cooling Subsystems,'' dated January 19, 2018 (ADAMS Accession No. ML18019B187), using the consolidated line item improvement process.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Entergy Louisiana, LLC, and Entergy Operations, Inc.; River Bend Station, Unit 1; West Feliciana Parish, LA; Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, LLC; Grand Gulf Nuclear Station, Unit 1; Claiborne County, MS

Docket No(s)	50–416, 50–458.
Amendment Date	February 1, 2021.
ADAMS Accession No	ML21011A048.
Amendment No(s)	Grand Gulf—225 and River Bend—204.
Brief Description of Amendment(s)	The amendments adopted Technical Specifications Task Force (TSTF) Traveler TSTF–566, Revision 0, ''Revise Actions for Inoperable RHR [Residual Heat Removal] Shutdown Cooling Subsystems,'' dated January 19, 2018 (ADAMS Accession No. ML18019B187), which is an approved change to the Improved Standard Technical Specifications, into the Grand Gulf Nuclear Station, Unit 1 and River Bend Station, Unit 1 technical specifications. The model safety evaluation was approved by the NRC in a letter dated February 21, 2019 (ADAMS Accession No. ML19028A287), using the consolidated line item improvement process.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

LICENSE AMENDMENT ISSUANCE(S)—Continued

Entergy Louisiana, LLC, and Entergy Operations, Inc.; River Bend Station, Unit 1; West Feliciana Parish, LA; Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, LLC; Grand Gulf Nuclear Station, Unit 1; Claiborne County, MS

Docket No(s)	50–416, 50–458.
Amendment Date	February 2, 2021.
ADAMS Accession No	ML21011A068.
Amendment No(s)	Grand Gulf—226 and River Bend—205.
Brief Description of Amendment(s)	The amendments adopted Technical Specifications Task Force (TSTF) Traveler TSTF–439, ''Eliminate Second Completion Times Limiting Time from Discovery of Failure to Meet an LCO [Limiting Condition for Operation],'' Revision 2, dated June 20, 2005 (ADAMS Accession No. ML051860296), into the technical specifications for Grand Gulf Nuclear Station, Unit 1 and River Bend Station, Unit 1.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Exelon Generation Company, LLC; Calvert Cliffs Nuclear Power Plant, Units 1 and 2; Calvert County, MD

Docket No(s)	50–317, 50–318.
Amendment Date	January 26, 2021.
ADAMS Accession No	ML20363A242.
Amendment No(s)	339 (Unit 1) and 317 (Unit 2).
Brief Description of Amendment(s)	The amendments permit the use of accident tolerant fuel lead test assemblies and made an administrative change to the technical specifications. Up to two lead test assemblies of the Framatome PROtect™ fuel design are allowed to be loaded into the Calvert Cliffs Nuclear Power Plant, Unit 1 and Unit 2, reactors for up to three cycles.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Exelon Generation Company, LLC; Dresden Nuclear Power Station, Units 2 and 3; Grundy County, IL; Exelon Generation Company, LLC; LaSalle County Station, Units 1 and 2; LaSalle County, IL; Exelon Generation Company, LLC; Limerick Generating Station, Units 1 and 2; Montgomery County, PA; Exelon Generation Company, LLC; Peach Bottom Atomic Power Station, Units 2 and 3; York County, PA; Exelon Generation Company, LLC; Quad Cities Nuclear Power Station, Units 1 and 2; Rock Island County, IL; Nine Mile Point Nuclear Station, LLC and Exelon Generation Company, LLC; Nine Mile Point Nuclear Station, Unit 2; Oswego County, NY

Docket No(s)	50–237, 50–249, 50–373, 50–374, 50–352, 50–353, 50–410, 50–277, 50–278, 50–254, 50–265.
Amendment Date	February 4, 2021.
ADAMS Accession No	ML21013A005.
Amendment No(s)	Dresden—273 (Unit 2) and 266 (Unit 3); LaSalle—247 (Unit 1) and 233 (Unit 2); Limerick—251 (Unit 1) and 213 (Unit 2); Peach Bottom—336 (Unit 2) and 339 (Unit 3); Quad Cities—285 (Unit 1) and 281 (Unit 2); Nine Mile Point—184 (Unit 2).
Brief Description of Amendment(s)	The amendments revised certain technical specification requirements for the following physical parameters: (1) The drywell-to-suppression chamber differential pressure at Dresden and Quad Cities; (2) the primary containment oxygen concentration at Dresden, LaSalle, Nine Mile Point, Peach Bottom, and Quad Cities; and (3) the drywell and suppression chamber oxygen concentration at Limerick. The changes are based, in part, on Technical Specifications Task Force (TSTF) Traveler TSTF–568, Revision 2, ''Revise Applicability of BWR [Boiling-Water Reactor]/4 TS 3.6.2.5 and TS 3.6.3.2'' (ADAMS Accession No. ML19141A122).
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Unit 1; Berrien County, MI

Docket No(s)	50–315.
Amendment Date	January 12, 2021.
ADAMS Accession No	ML20329A001.
Amendment No(s)	356.
Brief Description of Amendment(s)	The amendment revised the reactor coolant system heatup and cooldown curves and the low temperature overpressure protection (LTOP) requirements in Technical Specification (TS) 3.4.3 and TS 3.4.12, respectively. The changes to the LTOP requirements in TS 3.4.12 also required conforming changes to be made to TSs 3.4.6, 3.4.7, and 3.4.10.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Units 1 and 2; Berrien County, MI

Docket No(s)	50–315, 50–316.
Amendment Date	January 15, 2021.
ADAMS Accession No	ML20366A155.
Amendment No(s)	357 (Unit 1) and 336 (Unit 2).
Brief Description of Amendment(s)	The amendments revised Technical Specification 5.5.12, ''Technical Specifications (TS) Bases Control Program,'' to align it with the Updated Final Safety Analysis Report update frequency and schedule.

LICENSE AMENDMENT ISSUANCE(S)—Continued

Public Comments Received as to Proposed NSHC (Yes/No).	No.
Nine Mile Point Nuclear Station, LLC and Exelon Generation Company, LLC; Nine Mile Point Nuclear Station, Unit 2; Oswego County, NY	
Docket No(s)	50–410.
Amendment Date	January 29, 2021.
ADAMS Accession No	ML20332A115.
Amendment No(s)	183.
Brief Description of Amendment(s)	The amendment permits the implementation of a risk-informed process for the categorization and treatment of structures, systems, and components, subject to special treatment controls. Also, the amendment added a license condition to the license that identifies action items that need to be completed prior to implementing the risk-informed categorization process and identifies possible changes to the risk-informed categorization process that would require prior NRC approval.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Northern States Power Company; Monticello Nuclear Generating Plant; Wright County, MN	
Docket No(s)	50–263.
Amendment Date	January 8, 2021.
ADAMS Accession No	ML20352A349.
Amendment No(s)	205.
Brief Description of Amendment(s)	The amendment revised the technical specifications related to reactor pressure vessel (RPV) water inventory control (WIC) based on Technical Specifications Task Force (TSTF) Travelers TSTF–582, Revision 0, ''RPV WIC Enhancements,'' and TSTF–583–T, Revision 0, ''TSTF–582 Diesel Generator Variation.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Luzerne County, PA	
Docket No(s)	50–387, 50–388.
Amendment Date	January 21, 2021.
ADAMS Accession No	ML20168B004.
Amendment No(s)	278 (Unit 1) and 260 (Unit 2).
Brief Description of Amendment(s)	The amendments revised the renewed facility operating licenses and technical specifications to allow application of the Framatome analysis methodologies necessary to support a planned transition to ATRIUM 11 fuel under the currently licensed Maximum Extended Load Line Limit Analysis operating domain.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL; Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN; Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN	
Docket No(s)	50–259, 50–260, 50–296, 50–327, 50–328, 50–390, 50–391.
Amendment Date	January 12, 2021.
ADAMS Accession No	ML20268A082.
Amendment No(s)	Browns Ferry—314 (Unit 1), 337 (Unit 2), and 297 (Unit 3); Sequoyah—351 (Unit 1) and 345 (Unit 2); and Watts Bar—140 (Unit 1) and 46 (Unit 2).
Brief Description of Amendment(s)	The amendments revised the technical specifications (TS) for Browns Ferry Nuclear Plant, Units 1, 2, and 3; Sequoyah Nuclear Plant, Units 1 and 2; and Watts Bar Nuclear Plant, Units 1 and 2, to remove the tables of contents from the TS and place them under licensee control. In addition, the amendments made two other administrative changes to the Sequoyah Nuclear Plant, Units 1 and 2; and Watts Bar Nuclear Plant, Units 1 and 2 TSs.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Tennessee Valley Authority; Sequoyah Nuclear Plant, Unit 1; Hamilton County, TN	
Docket No(s)	50–327.
Amendment Date	February 1, 2021.
ADAMS Accession No	ML20337A037.
Amendment No(s)	353.
Brief Description of Amendment(s)	The amendments modified the technical specifications to reduce the steam generator tube inspection frequency.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

LICENSE AMENDMENT ISSUANCE(S)—Continued

Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN; Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN	
Docket No(s)	50–327, 50–328, 50–390, 50–391.
Amendment Date	January 25, 2021.
ADAMS Accession No	ML20350B493.
Amendment No(s)	Sequoyah—352 (Unit 1), 346 (Unit 2); Watts Bar—141 (Unit 1), and 47 (Unit 2).
Brief Description of Amendment(s)	The amendments revised the technical specifications to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–569, Revision 2, ''Revise Response Time Testing Definition'' (ADAMS Accession No. ML19176A034).
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX	
Docket No(s)	50–445, 50–446.
Amendment Date	February 1, 2021.
ADAMS Accession No	ML20346A019.
Amendment No(s)	177 (Unit 1) and 177 (Unit 2).
Brief Description of Amendment(s)	The amendments revised Technical Specification (TS) 3.8.1, ''AC [Alternating Current] Sources—Operating,'' to change the emergency diesel generator surveillance requirement (SR) steady-state frequency band in multiple SRs from a band from 58.8 hertz (Hz) to 61.2 Hz to a band from 59.9 Hz to 60.1 Hz. The amendments also removed historical information from TS 3.8.1 and a Note from SR 3.8.1.13.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

IV. Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. They were published as individual notices either because time did not allow the Commission to wait for this monthly notice or because the action involved exigent circumstances. They are repeated here because the monthly notice lists all amendments issued or proposed to be issued involving NSHC.

For details, including the applicable notice period, see the individual notice in the **Federal Register** on the day and page cited.

LICENSE AMENDMENT REQUEST(S)—REPEAT OF INDIVIDUAL FEDERAL REGISTER NOTICE

Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Unit 2; Berrien County, MI	
Docket No(s)	50–316.
Application Date	December 14, 2020.
ADAMS Accession No	ML20363A011.
Brief Description of Amendment(s)	The proposed amendment would revise the Donald C. Cook Nuclear Plant, Unit 2, technical specifications to allow a one-time change to permit the current integrated leak rate test interval of 15 years to be extended by approximately 18 months to no later than the plant startup after the fall 2022 refueling outage.
Date & Cite of **Federal Register** Individual Notice.	January 12, 2021 (86 FR 2460).
Expiration Dates for Public Comments & Hearing Requests.	February 11, 2021 (Public Comments); March 15, 2021 (Hearing Requests).

Tennessee Valley Authority; Watts Bar Nuclear Plant, Unit 2; Rhea County, TN	
Docket No(s)	50–391.
Application Date	December 23, 2020.
ADAMS Accession No	ML20358A141.
Brief Description of Amendment(s)	The proposed amendment would revise the Watts Bar Updated Final Safety Analysis Report to apply alternate eddy current probabilities of detection to indications of axial outer diameter stress corrosion cracking at tube support plates in the Watts Bar, Unit 2, steam generators for the beginning-of-cycle voltage distribution in support of the Watts Bar, Unit 2, operational assessment. The proposed probability of determination values will only be used until the Watts Bar, Unit 2, steam generators are replaced.
Date & Cite of **Federal Register** Individual Notice.	January 8, 2021 (86 FR 1545).
Expiration Dates for Public Comments & Hearing Requests.	February 8, 2021 (Public Comments); March 9, 2021 (Hearing Requests).

Dated: February 10, 2021.

For the Nuclear Regulatory Commission.

Philip J. McKenna,

Acting Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2021–03107 Filed 2–22–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0218]

Information Collection: Notices, Instructions and Reports to Workers: Inspection and Investigations

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, ''Notices, Instructions and Reports to Workers: Inspection and Investigations.''

DATES: Submit comments by March 25, 2021. 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–2020–0218 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–2020–0218.
- *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. ML20357A054.
- *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 or 301–415–4737, 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–2020–0218 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. 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 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, part 19 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Notices, Instructions and Reports to Workers: Inspection and Investigations.'' 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 November 4, 2020 (85 FR 70202).

1. *The title of the information collection:* 10 CFR part 19, ''Notices, Instructions and Reports to Workers: Inspection and Investigations.''
2. *OMB approval number:* 3150–0044.
3. *Type of submission:* Revision.
4. *The form number if applicable:* Not applicable.
5. *How often the collection is required or requested:* As necessary in order that adequate and timely reports of radiation exposure be made to individuals in applicable NRC-licensed activities.
6. *Who will be required or asked to respond:* Licensees authorized to receive, possess, use, or transfer material licensed by the NRC.
7. *The estimated number of annual responses:* 1,899,235.
8. *The estimated number of annual respondents:* 19,500.
9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 579,661.
10. *Abstract:* 10 CFR part 19 establishes requirements for notices, instructions, and reports by licensees and regulated entities to individuals participating in NRC-licensed and regulated activities and options available to these individuals in connection with Commission inspections of licensees and regulated entities, and to ascertain compliance with the provisions of the Atomic Energy Act of 1954, as amended, Titles II and IV of the Energy Reorganization Act of 1974, and regulations, orders, and licenses thereunder. The regulations in this part also establish the rights and responsibilities of the Commission and individuals during interviews compelled by subpoena as part of the agency's inspections or investigations under Section 161c of the Atomic Energy Act of 1954, as amended, on any

matter within the Commission's jurisdiction.

Dated: February 17, 2021.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2021–03557 Filed 2–22–21; 8:45 am]

BILLING CODE 7590–01–P

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Senior Executive Service Performance Review Board Membership

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Annual notice.

SUMMARY: Notice is given of the appointment of members to the Performance Review Board (PRB) of the Occupational Safety and Health Review Commission.

DATE: Membership is effective on February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Linda M. Beard, Human Resources Specialist, U.S. Occupational Safety and Health Review Commission, 1120 20th Street NW, Washington, DC 20036, (202) 606–5393.

SUPPLEMENTARY INFORMATION: The Review Commission, as required by 5 U.S.C. 4314(c)(1) through (5), has established a Senior Executive Service PRB. The PRB reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor, and makes recommendations to the Chairman of the Review Commission regarding performance ratings, performance awards, and pay-for-performance adjustments. Members of the PRB serve for a period of 24 months. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees, pursuant to 5 U.S.C. 4314(c)(5). The names and titles of the PRB members are as follows:

- Tim English, Associate Administrator, Regional Operations and Support, United States Department of Agriculture, Food and Nutrition Service;
- Yvette Hatfield, Assistant General Counsel, Division of Operations-Management, National Labor Relations Board;
- Michael A. McCord, General Counsel, Federal Mine Safety and Health Review Commission.

Cynthia L. Attwood,

Chairman.

[FR Doc. 2021–03669 Filed 2–22–21; 8:45 am]

BILLING CODE 7600–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91144; File No. SR–CFE–2021–002]

Self-Regulatory Organizations; Cboe Futures Exchange, LLC; Notice of a Filing of a Proposed Rule Change Regarding Rule Consolidation

February 17, 2021.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 3, 2021 Cboe Futures Exchange, LLC (''CFE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'') [3] on January 28, 2021.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

The Exchange proposes to streamline the manner in which CFE's rules require CFE Trading Privilege Holders (''TPHs'') to comply with CFTC regulations relating to minimum financial requirements, financial reporting requirements, and protection of customer funds. The scope of this filing is limited solely to the application of the proposed rule change to security futures that may be traded on CFE. Although no security futures are currently listed for trading on CFE, CFE may list security futures for trading in the future. The text of the proposed rule change is attached as Exhibit 4 to the filing but is not attached to the publication of this notice.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE 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. CFE 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

Chapter 5 (Obligations of Trading Privilege Holders) of the CFE Rulebook currently includes a lengthy Appendix that contains twenty CFE rules numbered Rules 518 through 537. Each of these rules provides that any TPH subject to an enumerated CFTC Regulation that violates the specified Regulation shall be deemed to have violated that CFE rule. The CFTC Regulations referenced in the Appendix relate to minimum financial standards for intermediaries, the segregation of customer and proprietary funds, the custody of customer funds, the investment standards for customer funds, intermediary default procedures, and related recordkeeping. The Appendix is lengthy because it includes twenty separate CFE rules. The Appendix is also lengthy because each of these CFE rules includes CFE rule language as well as a restatement of the provisions of the applicable CFTC Regulation that is referenced in the rule which follows after the CFE rule language.

The proposed rule change streamlines the manner in which the requirements under the Appendix to Chapter 5 are presented in the CFE Rulebook while maintaining the same requirements within the Rulebook that are currently provided for under the Appendix. Specifically, the proposed rule change consolidates those requirements by enumerating all of them within current CFE Rule 518 (Compliance with Minimum Financial Requirements, Financial Reporting Requirements, and Requirements Relating to Protection of Customer Funds) instead of within an Appendix to Chapter 5. The proposed rule change also deletes the restatement of all of the provisions of the CFTC Regulations referenced in the Appendix while maintaining within Rule 518 reference to those same CFTC Regulations and to the subject matter of those regulations.

The following table identifies for each of the current CFE rules that is proposed to be consolidated into Rule 518 the rule

[1] 15 U.S.C. 78s(b)(7).

[2] The Commission notes that the Exchange originally filed its proposed rule change regarding rule consolidation on January 29, 2021 (SR–CFE–2021–001). SR–CFE–2021–001 was subsequently withdrawn and replaced by this filing in order to correct certain typographical errors in the Exhibit 1 and proposed rule text.

[3] 7 U.S.C. 7a–2(c).

number of the current rule, the subsection of amended Rule 518 that is proposed to address the subject matter of the current rule, and the CFTC regulation underlying the current rule. The table also includes a high level description of the subject matter of each of those rules as provided for under applicable CFTC regulation.

Current CFE rule	New CFE rule	CFTC regulation	Summary of rule
519	518(a)	[4] 1.10	Requires TPHs subject to CFTC Regulation 1.10 to comply with financial reporting requirements, including the requirement to file CFTC Form 1–FR.
520	518(b)	[5] 1.11	Requires TPHs subject to CFTC Regulation 1.11 to comply with the requirement that futures commission merchants ("FCMs") establish, maintain, and enforce a system of risk management policies and procedures.
521	518(c)	[6] 1.12	Requires TPHs subject to CFTC Regulation 1.12 to comply with the requirement to notify the CFTC if the TPH fails to maintain an adjusted net capital above certain specified thresholds.
522	518(d)	[7] 1.17	Requires TPHs subject to CFTC Regulation 1.17 to comply with certain minimum financial requirements.
523	518(e)	[8] 1.18	Requires TPHs subject to CFTC Regulation 1.18 to comply with the requirement to maintain records for and relating to financial reporting and a monthly computation regarding the TPH's assets, liabilities, and capital.
524	518(f)	[9] 1.20	Requires TPHs subject to CFTC Regulation 1.20 to comply with the requirement to separately account for all future customer funds and segregate those funds as belonging to the TPH's futures customers.
525	518(g)	[10] 1.21	Requires TPHs subject to CFTC Regulation 1.21 to comply with the requirement to treat all money and equities accruing to an FCM on behalf of any futures customer as accruing to the futures customer.
526	518(h)	[11] 1.22	Requires TPHs subject to CFTC Regulation 1.22 to comply with a prohibition on using or permitting the use of the customer funds of one futures customer to purchase, margin, or settle the trades of or to secure credit of any person other than that futures customer.
527	518(i)	[12] 1.23	Requires TPHs subject to CFTC Regulation 1.23 to comply with a prohibition on the commingling of futures customer funds with the funds of an FCM.
528	518(j)	[13] 1.24	Requires TPHs subject to CFTC Regulation 1.24 to comply with an exclusion that money held in a segregated account shall not include money invested in obligations or stocks of any clearing organization or contract market.
529	518(k)	[14] 1.25	Requires TPHs subject to CFTC Regulation 1.25 to comply with the requirements and restrictions regarding the investments of customer funds.
530	518(l)	[15] 1.26	Requires TPHs subject to CFTC Regulation 1.26 to comply with the requirement that each FCM that invests customer funds in instruments described in CFTC Regulation 1.25, except for investments in money market mutual funds, shall separately account for those instruments as futures customer funds and segregate those instruments as funds belonging to customers.
531	518(m)	[16] 1.27	Requires TPHs subject to CFTC Regulation 1.27 to comply with the requirement that each FCM which invests customer funds shall keep certain records of the investment.
532	518(n)	[17] 1.28	Requires TPHs subject to CFTC Regulation 1.28 to comply with the requirement that FCMs that invest customer funds in instruments described in CFTC Regulation 1.25 shall include those instruments in segregated account records and reports at values not exceeding current market values.
533	518(o)	[18] 1.29	Requires TPHs subject to CFTC Regulation 1.29 to comply with the provision that an FCM may invest customer funds and retain as the TPH's own incremental income or interest resulting therefrom and the requirement that an FCM shall bear sole responsibility for any losses resulting from the investment of customer funds in instruments described in CFTC Regulation 1.25.
534	518(p)	[19] 1.30	Requires TPHs subject to CFTC Regulation 1.30 to comply with a prohibition against an FCM lending funds on an unsecured basis to finance customers' trading or lending funds to customers secured by the customers' accounts.
535	518(q)	[20] 1.31	Requires TPHs subject to CFTC Regulation 1.31 to comply with the requirement to maintain electronic records in accordance with certain provisions and to further establish appropriate systems and controls that ensure the authority and reliability of electronic regulatory records.
536	518(r)	[21] 1.32	Requires TPHs subject to CFTC Regulation 1.32 to comply with the requirement each FCM compute as of the close of each business day the total amount of futures customer funds on deposit in segregated accounts as well as other specified details.
537	518(s)	[22] 1.36	Requires TPHs subject to CFTC Regulation 1.36 to comply with the requirement that each FCM maintain a record of all securities and property received from customers in lieu of money to margin, purchase, guarantee, or secure the transactions of those customers.

[4] 17 CFR 1.10.
[5] 17 CFR 1.11.
[6] 17 CFR 1.12.
[7] 17 CFR 1.17.
[8] 17 CFR 1.18.
[9] 17 CFR 1.20.
[10] 17 CFR 1.21.
[11] 17 CFR 1.22.
[12] 17 CFR 1.23.
[13] 17 CFR 1.24.
[14] 17 CFR 1.25.
[15] 17 CFR 1.26.
[16] 17 CFR 1.27.
[17] 17 CFR 1.28.
[18] 17 CFR 1.29.
[19] 17 CFR 1.30.
[20] 17 CFR 1.31.
[21] 17 CFR 1.32.
[22] 17 CFR 1.36.

CFE believes that its proposed approach to amending the Appendix to Chapter 5 simplifies the CFE Rulebook by streamlining a lengthy portion of the Rulebook that contains twenty separate rules into one straightforward rule that reflects all of the same requirements that exist under the consolidated rules thereby making it easier for TPHs to reference these requirements within CFE's Rulebook because they will all be enumerated in a single rule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[23] in general, and furthers the objectives of Sections 6(b)(1)[24] and 6(b)(5)[25] in particular, in that it is designed:

- To enable the Exchange to enforce compliance by its TPHs and persons associated with its TPHs with the provisions of the rules of the Exchange,
- to prevent fraudulent and manipulative acts and practices,
- to promote just and equitable principles of trade,
- to remove impediments to and perfect the mechanism of a free and open market and a national market system,
- and in general, to protect investors and the public interest.

The proposed rule change retains within the CFE Rulebook rule provisions that address minimum financial requirements, financial reporting requirements, and protection of customer funds, including rules relating to appropriate minimum financial standards for intermediaries, the segregation of customer and proprietary funds, the custody of customer funds, the investment standards for customer funds, intermediary default procedures, and related recordkeeping as required by CFTC regulations, all in furtherance of TPH compliance with those rule provisions and their enforcement by the Exchange. In particular, the proposed rule change streamlines a lengthy portion of the Rulebook that contains twenty separate rules into one straightforward rule that reflects all of the same requirements that exist under the consolidated rules thereby making it easier for TPHs to reference those requirements within CFE's Rulebook because they will all be enumerated in a single rule. The Exchange believes that making it easier for TPHs to reference those requirements will contribute to furthering compliance with those requirements by TPHs.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE 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, in that the Exchange believes that the proposed rule change will contribute to furthering compliance by TPHs with CFTC regulations relating to minimum financial requirements, financial reporting requirements, and protection of customer funds. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory in that it would apply equally to all TPHs subject to the relevant CFTC regulations.

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 proposed rule change will become operative on February 11, 2021. At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[26]

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–CFE–2021–002 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–CFE–2021–002. 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–CFE–2021–002, and should be submitted on or before March 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03546 Filed 2–22–21; 8:45 am]

BILLING CODE 8011–01–P

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(1).

[25] 15 U.S.C. 78f(b)(5).

[26] 15 U.S.C. 78s(b)(1).

[27] 17 CFR 200.30–3(a)(73).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91146; File No. SR–PEARL–2021–03]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 200, Trading Permits

February 17, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that on February 11, 2021, MIAX PEARL, LLC (''MIAX PEARL'' 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 proposed rule change to Exchange Rule 200(d) requiring membership in another national securities exchange or association.

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

The purpose of the proposed rule change is to amend Exchange Rule 200(d) requiring membership in another national securities exchange or association. In sum, Exchange Rule 200(d) currently requires that Trading Permit [3] holders be a member in another registered options exchange, other than the Exchange's affiliates, the Miami International Securities Exchange, LLC (''MIAX'') or MIAX Emerald, LLC (''Emerald''), or the Financial Industry Regulatory Authority, Inc. (''FINRA'') where such other registered options exchange has not been designated by the Commission, pursuant to Rule 17d–1 under the Exchange Act, to examine Members for compliance with financial responsibility rules. Exchange Rule 200(d), therefore, does not allow a Trading Permit Holder that is not a FINRA member [4] to satisfy this requirement by being a member of a registered equities exchange. The Exchange believes that requiring membership in another registered options exchange is unnecessarily too restrictive and is also not in line with similar membership requirements at other exchanges.[5] Therefore, to enable more broker-dealers to become Trading Permit holders, the Exchange proposes to amend Exchange Rule 200(d) to require membership in a registered national securities exchange, rather than only registered options exchanges.[6] Exchange Rule 200(d) will continue to require Trading Permit holders to be FINRA members where the registered national securities exchange that they maintain membership is not designated by the Commission to examine members for compliance with financial responsibility rules pursuant to Rule 17d–1 of the Exchange Act.[7]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5),[9] 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 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 the proposed rule change would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest by expanding the number of registered brokers-dealers that would be eligible to become Trading Permit holders and trade on the Exchange, while maintaining high regulatory standards and a comprehensive regulatory regime with respect to such firms. Exchange Rule 200(d) was too restrictive by limiting membership in another registered national securities exchange to only registered options exchanges and, therefore, unnecessarily precluded broker-dealers who were members of a registered equities exchange from becoming Trading Permit holders. As mentioned above, Exchange Rule 200(d) will continue to require Trading Permit holders to be FINRA members where the registered national securities exchange that they maintain membership is not designated by the Commission to examine members for compliance with financial responsibility rules pursuant to Rule 17d–1 of the Exchange Act. This will ensure that those Trading Permit holders that are not FINRA members maintain membership at a registered options or equities exchange that may be designated as their DEA by the Commission. The proposed rule change would also contribute to perfecting the mechanism of a free and open market and a national market system, which outcomes are also consistent with the protection of investors and the public interest, by aligning the Exchange's membership requirements more closely with those of other national securities exchanges.[10]

The proposed rule change would also not unfairly discriminate between or among market participants because both current and prospective Trading Permit holders would be subject to the rule. All Trading Permit holders would be regulated in the same manner by the Exchange should they be a member of another registered national options or equities exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[3] The term ''Trading Permit'' means a permit issued by the Exchange that confers the ability to transact on the Exchange. *See* Exchange Rule 100.

[4] A Trading Permit Holder that does not transact business with the public is not required to become a FINRA member. Section 15(b)(8) of the Act that requires members that transact business with the public to be a member of FINRA. 15 U.S.C. 78*o*(b)(8).

[5] *See* Cboe EDGX Exchange, Inc. (''EDGX'') Rule 2.5(a)(4), Cboe EDGA Exchange, Inc. (''EDGA'') Rule 2.5(a)(4), Cboe BZX Exchange, Inc. (''BZX'') Rule 2.5(a)(4), Cboe BYX Exchange, Inc. (''BYX'', collectively with EDGX, EDGA, and BZX, the ''Cboe Equity Exchanges'') Rule 2.5(a)(4), MEMX LLC (''MEMX'') Rule 2.5(a)(4), Investors Exchange, Inc. (''IEX'') Rule 2.130(a), Long Term Stock Exchange, Inc. (''LTSE'') Rule 2.130 *and* BOX Exchange LLC (''BOX'') Rule 2020(a).

[6] The Exchange also propose to include the phrase ''or FINRA'' at the end of Exchange Rule 200(d)'s title.

[7] Rule 17d–1 of the Act authorizes the Commission to name a single Self-Regulatory Organization (''SRO'') as the Designated Examining Authority (''DEA'') to examine members of more than one SRO (''common member'') for compliance with the financial responsibility requirements imposed by the Exchange Act, or by Commission or SRO rules. 17 CFR 240.17d–1. The Exchange does not currently act as the DEA for any Trading Permit holder.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See supra* note 5.

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to enhance competition by expanding the number of registered brokers-dealers that would be eligible to become Trading Permit holders and trade on the Exchange by aligning Exchange Rule 200(d) with that of other national securities exchanges.[11]

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[12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[14] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Exchange states that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to immediately expand the number of registered broker-dealers that would be eligible to become Trading Permit holders on the Exchange and align its membership requirements more closely with those of other national securities exchanges.[16] For this reason, and because the proposal does not raise any novel regulatory issues, 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.[17]

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–2021–03 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–2021–03. 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–2021–03 and should be submitted on or before March 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03543 Filed 2–22–21; 8:45 am]

BILLING CODE 8011–01–P

[11] *Id.*

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] *See supra* note 5.

[17] 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).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91143; File No. SR–NYSE–2021–13]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 7.35C To Change the Auction Reference Price for Exchange-Facilitated Core Open Auctions

February 17, 2021.

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 February 8, 2021, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.35C (Exchange-Facilitated Auctions) to change the Auction Reference Price for Exchange-facilitated Core Open Auctions. 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 Rule 7.35C (Exchange-Facilitated Auctions) to change the Auction Reference Price for Exchange-facilitated Core Open Auctions.

For Exchange-facilitated Auctions, the Exchange determines an Auction Price based on the Indicative Match Price for a security, which is bound by Auction Collars.[4] Rule 7.35C(b)(1) specifies the Auction Reference Price that is used for determining Auction Collars for Exchange-facilitated Core Open Auctions, which is the Imbalance Reference Price, as determined under Rule 7.35A(e)(3).[5] Currently, the Auction Collars for the Core Open Auction are at a price that is the greater of $0.15 or 10% away from the Auction Reference Price.

On June 4, 2020, the Exchange added Commentary .04 to Rule 7.35C to provide that the Auction Collars for Exchange-facilitated Core Open Auctions would be the greater of $1.00 or 10% away from the Auction Reference Price.[6] The Exchange added this Commentary to reduce the number of securities subject to a collared Exchange-facilitated Core Open Auction.[7] The Exchange observed that from June 4, 2020 up to June 17, 2020, when DMMs returned staff to the Trading Floor, even with the widened Auction Collars, if there were significant overnight market-wide volatility, Exchange-facilitated Core Open Auctions had a greater likelihood of being subject to an Auction Collar. For example, for that same June 4–June 16 period, when the price of the SPDR S&P 500 ETF Trust (''SPY'')[8] moved over 1% from the prior day's close, 1.4% of the Exchange-facilitated Core Open Auctions were subject to an Auction Collar, as compared to only .5% of the Exchange-facilitated Core Open Auctions being subject to an Auction Collar when SPY moved less than 1% from the prior day's close.

The Exchange believes that adjusting the Auction Reference Price to align more closely with the anticipated price of the Core Open Auction, rather than widening the Auction Collars, would reduce the potential for an Exchange-facilitated Core Open Auction to be subject to an Auction Collar on all trading days, including when there is significant overnight market-wide volatility. Accordingly, rather than providing for a wider Auction Collar, as set forth in Commentary .04 to Rule 7.35C, the Exchange proposes to amend Rule 7.35C to update how the Auction Reference Price for Exchange-facilitated Core Open Auctions would be determined. Specifically, the Exchange proposes to determine Auction Reference Prices for Exchange-facilitated Core Open Auctions in the same manner that the Exchange's affiliates, NYSE Arca, Inc. (''NYSE Arca'') and NYSE American LLC (''NYSE American''), determine the Auction Reference Price for their electronic Core Open Auctions.

NYSE Arca Rule 7.35–E(a)(8)(A) and NYSE American Rule 7.35E(a)(8)(A) both provide that the Auction Reference Price for Core Open Auctions on those exchanges is, ''[t]he midpoint of the Auction NBBO or, if the Auction NBBO is locked, the locked price. If there is no Auction NBBO, the prior day's Official Closing Price.'' The NYSE Arca and NYSE American rules define the term ''Auction NBBO'' to mean:

> An NBBO that is used for purposes of pricing an auction. An NBBO is an Auction NBBO when (i) there is an NBB above zero and NBO for the security and (ii) the NBBO is not crossed. In addition, for the Core Open Auction, an NBBO is an Auction NBBO when the midpoint of the NBBO when multiplied by a designated percentage, is greater than or equal to the spread of that NBBO. The designated percentage will be determined by the Exchange from time to time upon prior notice to ETP Holders.[9]

The Exchange proposes to amend Rule 7.35C(b)(1) to provide that the Auction Reference Price for an Exchange-facilitated Core Open Auction would be: ''The midpoint of the Auction NBBO or, if the Auction NBBO is locked, the locked price. If there is no Auction NBBO, the Official Closing Price from the prior trading day.'' This rule text is based on NYSE Arca Rule 7.35–E(a)(8)(A) and NYSE American Rule 7.35E(a)(8)(A) without any differences.

The Exchange further proposes to amend Rule 7.35(a) to add a definition for the term ''Auction NBBO,'' which would similarly be based on the definition of that term in the NYSE Arca and NYSE American rules without any substantive differences, as follows:

> ''Auction NBBO'' means an NBBO that is used for purposes of pricing an auction. An NBBO is an Auction NBBO when (i) there is an NBB above zero and NBO for the security and (ii) the NBBO is not crossed. In addition, for the Core Open Auction, an NBBO is an Auction NBBO when the midpoint of the NBBO when multiplied by a designated percentage, is greater than or equal to the spread of that NBBO. The designated percentage will be determined by the Exchange from time to time upon prior notice to member organizations.

[4] *See* Rule 7.35C(b)(2).

[5] *See* Rule 7.35C(b)(3)(A)(i). Pursuant to Rule 7.35A(e)(3), the Imbalance Reference Price for a Core Open Auction is the Consolidated Last Sale Price, unless a pre-opening indication has been published. Pursuant to Rule 7.35(a)(11)(A), the term ''Consolidated Last Sale Price'' means the most recent consolidated last-sale eligible trade in a security during Core Trading Hours on that trading day, and if none, the Official Closing Price from the prior trading day for that security.

[6] *See* Securities Exchange Act Release No. 89059 (June 12, 2020), 85 FR 36911 (June 18, 2020) (SR–NYSE–2020–50) (amending Rule 7.35C to add Commentary .04) (''Rule 7.35C Filing''). Commentary .04 is in effect for a temporary period that began on June 4, 2020 and ends on the earlier of a full reopening of the Trading Floor facilities to DMMs or after the Exchange closes on April 30, 2021.

[7] In the Rule 7.35C Filing, *id.,* the Exchange explained that for the period while the Trading Floor had been temporarily closed preceding that filing, the Exchange had facilitated 2.35% of the Core Open Auctions and that approximately 30% of the Exchange-facilitated Core Open Auctions had an Indicative Match Price that was subject to an Auction Collar, and approximately 50% of these collared Exchange-facilitated Core Open Auctions were in securities trading at prices under $10.00. The Exchange further noted that if Auction Collars had not been applied to these securities priced under $10.00, they would have opened at a price between $0.15 and $1.00 away from the Auction Reference Price.

[8] Because SPY is priced based on the securities included in the S&P 500 Index, the Exchange believes that SPY's price as compared to its prior day's closing price is indicative of the scope of market-wide volatility leading into the open of the Core Trading Session.

[9] *See* NYSE Arca Rule 7.35–E(a)(5) and NYSE American Rule 7.35E(a)(5).

The Exchange proposes to add the term ''Auction NBBO'' as Rule 7.35(a)(5) and make non-substantive changes to renumber the definitions currently set forth in Rules 7.35(a)(5)–(12) as Rules 7.35(a)(6)–(13).

Because there are technology changes associated with this proposed rule change, the Exchange proposes to announce the implementation date of this change by Trader Update. The Exchange anticipates that the Exchange will implement this technology change in the first quarter of 2021.

To provide continuity, the Exchange further proposes to amend Commentary .04 to Rule 7.35C to provide that such Commentary would end on the earlier of when the Exchange implements its technology change to use the midpoint of the Auction NBBO as the Auction Reference Price for the Core Open Auction or after the Exchange closes on April 30, 2020. With this proposed rule change, the widened Auction Collars specified in that Commentary would continue to be operative until such time that the proposed changes to the Auction Reference Price for Exchange-facilitated Core Open Auctions are operative and implemented.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposal to change the Auction Reference Price for Exchange-facilitated Core Open Auctions would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would reduce the potential number of securities that would be subject to a collared Exchange-facilitated Core Open Auction, including when there is significant overnight market-wide volatility. Commentary .04 to Rule 7.35C sought to achieve this goal by widening the Auction Collars, but as noted above, these temporary widened Auction Collars would not prevent an Exchange-facilitated Core Open Auction from being subject to an Auction Collar when there has been significant overnight market-wide volatility. The Exchange believes that aligning the Auction Reference Price more closely with the anticipated opening price by using the midpoint of the Auction NBBO as the Auction Reference Price (or Official Closing Price of the prior Trading Day if no Auction NBBO) would reduce the potential for an Exchange-facilitated Core Open Action to be subject to an Auction Collar on all trading days, including when there is significant overnight market-wide volatility. The Exchange further believes that this proposed rule change would reduce the potential number of securities that would open at a price that may not represent the current value of the security due to unfilled marketable auction interest, while still preserving investor protections by preventing significantly dislocated openings. This proposed rule change would therefore promote the fair and orderly operation of Exchange-facilitated Core Open Auctions by allowing such securities to open at a price that is consistent with the buy and sell interest in the security, which would also allow more buy and sell interest to participate in such Auction.

The Exchange notes that this proposed change is not novel and is based on how NYSE Arca and NYSE American determine the Auction Reference Price for their respective electronic Core Open Auctions. Accordingly, this proposed change would align how Auction Reference Prices are determined for electronic Exchange-facilitated Auctions across NYSE, NYSE Arca, and NYSE American.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to provide the Exchange with additional tools for when it facilitates an Auction, including by aligning the Auction Reference Price for an Exchange-facilitated Core Open Auction with the Auction Reference Price used for NYSE Arca and NYSE American electronic Core Open Auctions. The proposed rule change does not implicate any intermarket competition concerns because it relates to how the Exchange would facilitate Auctions in Exchange-listed securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; or (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[14] and Rule 19b–4(f)(6)(iii) thereunder.[15]

A proposed rule change filed under Rule 19b–4(f)(6)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has represented that the technology to implement this proposed rule change will be available in less than 30 days from filing and that a waiver of the operative delay would allow the Exchange to implement this proposed rule change as soon as the technology is available. The Commission notes that the proposal was previously included in another filing and afforded a public comment period under that filing of greater than 30 days.[18] The Commission

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[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 complied with this requirement.

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] The proposal was originally included in SR–NYSE–2020–89, and published for public notice and comment on November 5, 2020. *See* Securities

believes that a waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal was published previously for a substantial period time for public comment and no comments were received on the proposal, and because a waiver will allow the proposed rules to become effective in time for the Exchange to implement its related technological changes. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[19]

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)[20] 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–2021–13 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–2021–13. 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–2021–13 and should be submitted on or before March 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03545 Filed 2–22–21; 8:45 am]

BILLING CODE 8011–01–P

Exchange Act Release No. 90363 (Nov. 5, 2020), 85 FR 71964 (Nov. 12, 2020). The comment period for SR–NYSE–2020–89 was extended to February 10, 2021. *See* Securities Exchange Act Release No. 90726 (Dec. 18, 2020), 85 FR 84431 (Dec. 28, 2020). The Exchange amended SR–NYSE–2020–89 on February 5, 2021 to remove the proposal from that filing, *see* Securities Exchange Act Release No. 91095 (Feb. 10, 2021), 86 FR 9978 (Feb. 17, 2021), and then subsequently filed the proposal as SR–NYSE–2021–13 on February 13, 2021. The Commission notes that it received no comments on the proposal under SR–NYSE–2020–89.

[19] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91147; File No. SR–NYSEARCA–2021–12]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

February 17, 2021.

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 February 10, 2021, NYSE Arca, Inc. (''NYSE Arca'' 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 the NYSE Arca Equities Fees and Charges (''Fee Schedule'') to adopt a new pricing tier, Tape B Tier 3, and make non-substantive changes to the Fee Schedule. The Exchange proposes to implement the fee changes effective February 10, 2021. 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 adopt a new pricing tier, Tape B Tier 3, and make non-substantive changes to the Fee Schedule.

The proposed change to adopt a new pricing tier responds to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for ETP

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Holders[4] to send additional liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective February 10, 2021.[5]

Background

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.''[6]

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.''[7] Indeed, equity trading is currently dispersed across 16 exchanges,[8] numerous alternative trading systems,[9] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 18% market share.[10] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 10% market share of executed volume of equities trading.[11]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which a firm routes order flow. With respect to non-marketable order flow that would provide liquidity on an Exchange against which market makers can quote, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange.

Proposed Rule Change

Tape B Tier 3

The Exchange proposes to introduce a new pricing tier—Tape B Tier 3—for securities with a per share price of $1.00 and above. The proposed rule change is designed to be available to ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on the Exchange's options platform (''NYSE Arca Options'') and is intended to provide such ETP Holders with an incentive to direct their liquidity-providing orders in Tape B securities to the Exchange.

As proposed, ETP Holders would qualify for the new Tape B Tier 3 pricing tier if, on a daily basis, measured monthly, they directly execute providing volume in Tape B Securities during the billing month that is equal to 0.20% or more of the US consolidated average daily volume (''US CADV'')[12] in Tape B Securities and are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions for the account of a market maker in all issues on NYSE Arca Options of at least 0.50% of total Customer equity and ETF option ADV as reported by The Options Clearing Corporation (''OCC''). ETP Holders that qualify for the proposed Tape B Tier 3 would receive a credit of $0.0025 per share for orders that provide liquidity in Tape B securities.

As with the current Tape B Tier 1 and Tape B Tier 2 pricing tiers, Lead Market Makers (''LMMs'') cannot qualify for the proposed Tape B Tier 3 pricing tier. For all other fees and credits, tiered or basic rates would apply based on a firm's qualifying levels.

The purpose of this proposed rule change is to incentivize ETP Holders to increase the liquidity-providing orders they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders. The Exchange believes that the proposal would create an added incentive for ETP Holders to bring additional order flow to a public market. The Exchange further believes that providing credits to ETP Holders that are affiliated with an OTP Holder or OTP Firm could lead to increased trading on the Exchange's equities and options markets.[13]

The Exchange believes that the proposed pricing tier would provide an incentive for a greater number of ETP Holders to send additional liquidity to the Exchange in order to qualify for the proposed new credit because, although the proposed pricing tier has a requirement of a minimum of options volume, it also requires an ETP Holder to provide liquidity in Tape B securities at a level below the requirement under both the Tape B Tier 1 and Tape B Tier 2 pricing tiers.[14]

The Exchange believes that this proposed change will provide a greater incentive to attract additional liquidity from additional ETP Holders so as to qualify for the Tape B Tier 3 credit. The Exchange anticipates a small number of ETP Holders could qualify for Tape B Tier 3 if they choose to route their orders to the Exchange. The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of ETP Holders' activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder directing orders to the Exchange

[4] All references to ETP Holders in connection with this proposed fee change include Market Makers.

[5] The Exchange originally filed to amend the Fee Schedule on February 1, 2021 (SR–NYSEArca–2021–10). SR–NYSEArca–2021–10 was subsequently withdrawn and replaced by this filing.

[6] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[7] *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).

[8] *See* Cboe Global Markets, U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[9] *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.*

[10] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[11] *See id.*

[12] US CADV means the United States Consolidated Average Daily Volume for transactions reported to the Consolidated Tape, excluding odd lots through January 31, 2014 (except for purposes of Lead Market Maker pricing), and excludes volume on days when the market closes early and on the date of the annual reconstitution of the Russell Investments Indexes. Transactions that are not reported to the Consolidated Tape are not included in US CADV. *See* Fee Schedule, footnote 3.

[13] There are currently 54 firms that are both ETP Holders and OTP Holders.

[14] For example, Tape B Tier 1 requires ETP Holders to execute providing volume in Tape B Securities that is equal to at least 1.50% of US Tape B CADV. While Tape B Tier 2 provides ETP Holders multiple ways to earn Tape B Tier 2 credit, at a minimum, ETP Holders must execute providing volume equal to at least 0.20% of the US Tape B CADV over the ETP Holder's baseline, which for Tape B Tier 2 is the ETP Holder's Q2 2015 providing ADV.

in order to qualify for the proposed new pricing tier.

Non-Substantive Change

The Exchange proposes to make a non-substantive change by deleting the words ''to the Book,'' ''from the Book,'' and ''outside the Book'' from the Fee Schedule. Specifically, in the context of a credit provided by the Exchange, a fee charged by the Exchange, or routing fees charged by the Exchange, the Fee Schedule currently utilizes the words ''to the Book,'' ''from the Book,'' and ''outside the Book,'' respectively. The Exchange believes these phrases are superfluous. ETP Holders understand that when they provide liquidity, they provide it ''to the Book.'' And when they take liquidity, they take it ''from the Book.'' Similarly, when their orders are routed, they are routed ''outside the Book.'' Therefore, the Exchange proposes to delete these three phrases from the Fee Schedule. The Exchange believes this non-substantive change would streamline the Fee Schedule and promote clarity.

The proposed changes are not otherwise intended to address any 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,[15] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[16] 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 Proposed Fee Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [17]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue to reduce use of certain categories of products, in response to fee changes. With respect to non-marketable orders that provide liquidity on an Exchange, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces reasonably constrain exchange transaction fees that relate to orders that would provide liquidity on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Tape B Tier 3

Given this competitive environment, the proposed rule change represents a reasonable attempt to attract additional order flow to the Exchange. In particular, the Exchange believes the proposed introduction of the Tape B Tier 3 pricing tier is reasonable because it provides ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options with an opportunity to qualify for the Tape B Tier 3 credit through equity and options orders. The Exchange believes that the proposed pricing tier utilizing a lower equity adding volume requirement coupled with a minimum options volume requirement is reasonable because the proposal provides firms with greater flexibility to reach volume tiers across asset classes, thereby creating an added incentive for ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to bring additional order flow to a public exchange, consequently encouraging greater participation and liquidity.

The Exchange notes that volume-based incentives and discounts have been widely adopted by exchanges, including the Exchange. They also provide additional benefits or discounts that are reasonably related to the value of the Exchange's market quality and associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is one of many venues and off-exchange venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. Competing exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based on members achieving certain volume thresholds across asset classes. Moreover, the Exchange believes the proposed pricing tier is a reasonable means to encourage ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to increase their liquidity on the Exchange and their participation on NYSE Arca Options. The Exchange believes adopting the proposed pricing tier may encourage those ETP Holders who could not previously achieve the requirements to qualify for Tape B credits to increase their order flow on both the Exchange and on NYSE Arca Options. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Non-Substantive Change

The Exchange believes that the proposed rule change to delete the phrases ''to the Book,'' ''from the Book,'' and ''outside the Book'' from the Fee Schedule is reasonable because each of the phrases are superfluous and extraneous. As noted above, ETP Holders understand that when they provide liquidity, they provide it ''to the Book,'' when they take liquidity, they take it ''from the Book,'' and when their orders are routed, they are routed ''outside the Book.'' The Exchange believes it is reasonable to delete these phrases in an effort to streamline the Fee Schedule. The Exchange believes deleting these phrases would also promote clarity to the Fee Schedule and simplify the Fee Schedule.

The Proposed Fee Change Is an Equitable Allocation of Fees and Credits

Tape B Tier 3

The Exchange believes the proposed rule change to adopt a new pricing tier equitably allocates its fees and credits among market participants because it is reasonably related to the value of the Exchange's market quality associated with higher equities and options volume.

The proposed pricing tier would be available to ETP Holders that are affiliated with OTP Holders or OTP Firms that have a market maker account

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4) and (5).

[17] *See* Regulation NMS, 70 FR at 37499.

on NYSE Arca Options. A number of ETP Holders have a reasonable opportunity to satisfy the tier's criteria.[18] The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of an ETP Holder's activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to increase participation in the Exchange's equities and options markets to qualify for the proposed Tape B Tier 3 credit. The Exchange believes the proposed pricing tier could provide an incentive for other ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to submit additional liquidity on the Exchange and on NYSE Arca Options to qualify for the Tape B Tier 3 credit. To the extent that such participants direct significant order flow to the Exchange's equities and options markets, the Exchange believes such participants should receive the credit proposed by the new pricing tier. To the extent an ETP Holder participates on the Exchange but not on NYSE Arca Options, the Exchange believes that the proposal is still reasonable, equitable and not unfairly discriminatory with respect to such ETP Holder based on the overall benefit to the Exchange resulting from the success of NYSE Arca Options. In particular, such success would allow the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on NYSE Arca Options or not.

While the proposal is intended to incentivize ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options, ETP Holders that do not meet the criteria for the proposed tier can still qualify for credits available under the other Tape B pricing tiers which do not require it to have any affiliation with an OTP Holder or OTP Firm and conduct options trading on NYSE Arca Options.

Non-Substantive Change

The Exchange believes that the proposed rule change to delete the phrases ''to the Book,'' ''from the Book,'' and ''outside the Book'' from the Fee Schedule is equitable because the resulting streamlined Fee Schedule would continue to apply to ETP Holders as it does currently because the Exchange is not adopting any new fees or credits or removing any current fees or credits from the Fee Schedule. All ETP Holders would continue to be subject to the same fees and credits that currently apply to them.

The Proposed Fee Change Is Not Unfairly Discriminatory

Tape B Tier 3

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, ETP Holders are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

The Exchange believes it is not unfairly discriminatory to adopt the Tape B Tier 3 pricing tier as it would be available on an equal basis to ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options that meet the requirement of the proposed Tape B Tier 3 pricing tier. Further, the Exchange believes the proposed pricing tier would incentivize such ETP Holders to send their options orders to the Exchange to qualify for the proposed new credit. The Exchange believes that, to the extent that ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options, direct significant order flow to the Exchange's equities and options markets, such participants should receive the credit proposed by the new pricing tier. The Exchange also believes that the proposed change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volume.

The proposed rule change is intended to incentivize ETP Holders that are affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options. As such, it does not permit unfair discrimination because the requirement to qualify for the new pricing tier would be applied to all similarly situated ETP Holders, who would all be eligible for the same credit on an equal basis.

Non-Substantive Change

The Exchange believes that the proposed rule change to delete the phrases ''to the Book,'' ''from the Book,'' and ''outside the Book'' from the Fee Schedule is not unfairly discriminatory because the resulting streamlined Fee Schedule would continue to apply to ETP Holders as it does currently because the Exchange is not adopting any new fees or credits or removing any current fees or credits from the Fee Schedule. All ETP Holders would continue to be subject to the same fees and credits that currently apply to them.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

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 submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for ETP Holders. 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 change is designed to attract additional equities and options order flow to the Exchange. The Exchange believes that the proposed introduction of the Tape B Tier 3 pricing tier would incentivize market participants to direct providing order flow to the Exchange and greater participation on NYSE Arca Options. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages ETP Holders affiliated with an OTP Holder or OTP Firm that has a market maker account on NYSE Arca Options to send orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. The proposed volume requirement would be applicable to all similarly-situated market participants, and, as such, the

[18] *See supra* note 13.

[19] 15 U.S.C. 78f(b)(8).

[20] *See* Regulation NMS, 70 FR at 37498–99.

proposed change would not impose a disparate burden on competition among market participants on the Exchange. As such, the Exchange believes the proposed new pricing tier would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change places a burden on competition among participants that are not affiliated with an OTP Holder or OTP Firm with a market maker account on NYSE Arca Options because such participants can avail themselves to credits available under other Tape B pricing tiers that do not require participation on NYSE Arca Options. Additionally, the Exchange's proposal to delete the phrases ''to the Book,'' ''from the Book,'' and ''outside the Book'' from the Fee Schedule will not place any undue burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change does not impact any fees charged or credits provided by the Exchange. All ETP Holders would continue to be subject to the same fees and credits that currently apply to them.

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. As noted above, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) is currently less than 10%. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed rule change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

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–NYSEARCA–2021–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2021–12 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–NYSEARCA–2021–12 and should be submitted on or before March 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

J. Matthew DeLesDernier,

Assistant Secretary.

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[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).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91142; File No. SR–Phlx–2021–08]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 3304

February 17, 2021.

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 February 4, 2021, Nasdaq PHLX LLC (''Phlx'' 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Rule 3304 (Data Feeds Utilized) to change the primary and secondary source of quotation data of certain market centers in the list of proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders as well as regulatory compliance processes related to those functions.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/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 update and amend the data feeds table in Rule 3304, which sets forth on a market-by-market basis the specific proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance processes related to each of those functions. Specifically, the table would be amended to reflect that the Exchange will receive a direct feed from MIAX PEARL, LLC (''MIAX PEARL'') and MEMX LLC (''MEMX'') as its primary quotation data source and CQS/UQDF will become its secondary data source for the handling, routing and execution of orders and for performing regulatory compliance processes related to each of those functions. The change to the primary sources reflects the Exchange's effort to include an additional source and the use of secondary sources in the event the primary source is unable to provide data.

The Exchange proposes to implement the proposed rule change no later than ninety (90) days following the effective date of the proposed rule change. The Exchange notes this additional time gives the Exchange time to configure its system accordingly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5) of the Act,[4] 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 the proposed rule change removes impediments to and perfects the mechanism of a free and open market because updating its data feeds table of market centers for which the exchange consumes quotation data through a direct feed will provide clarity to market participants. Additionally, it is necessary and consistent with the public interest and the protection of investors to update the Exchange's table of market centers in Rule 3304 in order to provide transparency with respect to all the direct proprietary and network processor feeds from which the Exchange obtains market data.

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 designed to address any competitive issue; instead, its purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds.

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[5] and Rule 19b–4(f)(6) thereunder.[6]

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–Phlx–2021–08 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–Phlx–2021–08. 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

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 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.

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–Phlx–2021–08 and should be submitted on or before March 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03544 Filed 2–22–21; 8:45 am]

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[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91145; File No. SR–EMERALD–2021–05]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Establish Market Data Fees

February 17, 2021.

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 February 4, 2021, MIAX Emerald, LLC (''MIAX Emerald'' or ''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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Emerald Fee Schedule (the ''Fee Schedule'') to establish market data fees.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald,* at MIAX'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

The Exchange proposes to amend the Fee Schedule to establish market data fees. MIAX Emerald commenced operations as a national securities exchange registered under Section 6 of the Act[3] on March 1, 2019.[4] The Exchange adopted its transaction fees and certain of its non-transaction fees in its filing SR–EMERALD–2019–15.[5] In that filing, the Exchange expressly waived, among others, market data fees to provide an incentive to prospective market participants to become Members[6] of the Exchange. At that time, the Exchange waived market data fees for the Waiver Period[7] and stated that it would provide notice to market participants when the Exchange intended to terminate the Waiver Period.

On September 15, 2020, the Exchange issued a Regulatory Circular which announced, among other things, that the Exchange would be ending the Waiver Period for market data fees, beginning October 1, 2020.[8]

On October 1, 2020, the Exchange filed its proposal to assess fees for its market data products, MIAX Emerald Top of Market (''ToM''), Administrative Information Subscriber (''AIS'') feed, and MIAX Order Feed (''MOR'').[9] On October 14, 2020, the Exchange withdrew the First Proposed Rule Change and refiled its proposal in order to provide more description regarding the difference in pricing for internal distributors and external distributors.[10]

On November 25, 2020, the Exchange withdrew the Second Proposed Rule Change[11] and refiled its proposal to assess fees for its ToM, AIS and MOR products in order to provide additional information.[12] On January 22, 2021, the Exchange withdrew the Third Proposed Rule Change[13] and refiled its proposal in order to provide a cost-based justification for its market data fees.[14] On February 4, 2021, the Exchange withdrew the Fourth Proposed Rule Change and refiled this proposal.

A more detailed description of the ToM, AIS and MOR products can be

[3] 15 U.S.C. 78f.

[4] *See* Securities Exchange Act Release No. 84891 (December 20, 2018), 83 FR 67421 (December 28, 2018) (File No. 10–233) (order approving application of MIAX Emerald, LLC for registration as a national securities exchange).

[5] *See* Securities Exchange Act Release No. 85393 (March 21, 2019), 84 FR 11599 (March 27, 2019) (SR–EMERALD–2019–15) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish the MIAX Emerald Fee Schedule).

[6] ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100 and the Definitions Section of the Fee Schedule.

[7] ''Waiver Period'' means, for each applicable fee, the period of time from the initial effective date of the MIAX Emerald Fee Schedule until such time that the Exchange has an effective fee filing establishing the applicable fee. The Exchange will issue a Regulatory Circular announcing the establishment of an applicable fee that was subject to a Waiver Period at least fifteen (15) days prior to the termination of the Waiver Period and effective date of any such applicable fee. *See* the Definitions Section of the Fee Schedule.

[8] *See* MIAX Emerald Regulatory Circular 2020–41 available at *https://www.miaxoptions.com/sites/default/files/circular-files/MIAX_Emerald_RC_2020_41.pdf.*

[9] *See* SR–EMERALD–2020–10 (the ''First Proposed Rule Change'').

[10] *See* Securities Exchange Act Release No. 90274 (October 27, 2020), 85 FR 69371 (November 2, 2020) (SR–EMERALD–2020–13) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Establish Market Data Fees) (the ''Second Proposed Rule Change'').

[11] *See* Comment Letter from Joseph W. Ferraro III, SVP, Deputy General Counsel, the Exchange, dated November 20, 2020, notifying the Commission that the Exchange will withdraw the Second Proposed Rule Change.

[12] *See* Securities Exchange Act Release No. 90612 (December 9, 2020), 85 FR 81242 (December 15, 2020) (SR–EMERALD–2020–16) (the ''Third Proposed Rule Change'').

[13] *See* Comment Letter from Joseph W. Ferraro III, SVP, Deputy General Counsel, the Exchange, dated January 19, 2021, notifying the Commission that the Exchange will withdraw the Third Proposed Rule Change.

[14] *See* SR–EMERALD–2021–04 (the ''Fourth Proposed Rule Change'').

found in the Exchange's previously filed Market Data Product filings.[15] The Exchange notes that it will not be assessing fees for Complex Top of Market (''cToM'')[16] data at this time.

To summarize, ToM provides market participants with a direct data feed that includes the Exchange's best bid and offer, with aggregate size, and last sale information, based on displayable order and quoting interest on the Exchange. The ToM data feed includes data that is identical to the data sent to the processor for the Options Price Reporting Authority (''OPRA''). ToM also contains a feature that provides the number of Priority Customer[17] contracts that are included in the size associated with the Exchange's best bid and offer.

AIS provides market participants with a direct data feed that allows subscribers to receive real-time updates of products traded on MIAX Emerald, trading status for MIAX Emerald and products traded on MIAX Emerald, and liquidity seeking event notifications. The AIS market data feed includes opening imbalance condition information, opening routing information, expanded quote range information, post-halt notifications, and liquidity refresh condition information. AIS real-time messages are disseminated over multicast to achieve a fair delivery mechanism. AIS notifications provide current electronic system status allowing subscribers to take necessary actions immediately.

MOR provides market participants with a direct data feed that allows subscribers to receive real-time updates of options orders, products traded on MIAX Emerald, MIAX Emerald Options System status, and MIAX Emerald Options Underlying trading status. Subscribers to the data feed will get a list of all options symbols and strategies that will be traded and sourced on that feed at the start of every session.

The Exchange proposes to charge monthly fees to Distributors (defined below) of the ToM, AIS, and MOR market data products. MIAX Emerald will assess market data fees applicable to the market data products on Internal and External Distributors in each month the Distributor is credentialed to use the applicable market data product in the production environment. A ''Distributor'' of MIAX Emerald data is any entity that receives a feed or file of data either directly from MIAX Emerald or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All Distributors are required to execute a MIAX Emerald Distributor Agreement. Market data fees for ToM, AIS, and MOR will be reduced for new Distributors for the first month during which they subscribe to the applicable market data product, based on the number of trading days that have been held during the month prior to the date on which they have been credentialed to use the applicable market data product in the production environment. Such new Distributors will be assessed a pro-rata percentage of the fees described above, which is the percentage of the number of trading days remaining in the affected calendar month as of the date on which they have been credentialed to use the applicable market data product in the production environment, divided by the total number of trading days in the affected calendar month.

Specifically, the Exchange proposes to assess Internal Distributors $1,250 per month and External Distributors $1,750 per month for the ToM market data feed. The Exchange proposes to assess Internal Distributors $1,250 per month and External Distributors $1,750 per month for the AIS market data feed. The Exchange proposes to assess Internal Distributors $3,000 per month and External Distributors $3,500 per month for the MOR market data feed. The Exchange notes that its data feed prices are generally lower than other options exchanges' data feed prices for their comparable data feed products.[18]

MIAX Emerald believes that exchanges, in setting fees of all types, should meet very high standards of transparency to demonstrate why each new fee or fee increase meets the requirements of the Act that fees be reasonable, equitably allocated, not unfairly discriminatory, and not create an undue burden on competition among members and markets. MIAX Emerald believes this high standard is especially important when an exchange sets certain non-transaction fees, including market data fees. The Exchange believes that it is important to demonstrate that these fees are based on its costs to provide these products and reasonable business needs. Accordingly, the Exchange believes the proposed fees will allow the Exchange to offset expense the Exchange has and will incur, and that the Exchange is providing sufficient transparency (as described below) into how the Exchange determined to charge such fees. Accordingly, the Exchange is providing an analysis of its revenues, costs, and profitability associated with the proposed fees. This analysis includes information regarding its methodology for determining the costs and revenues associated with the proposed fees.

In order to determine the Exchange's costs associated with providing the proposed fees, the Exchange conducted an extensive cost review in which the Exchange analyzed every expense item in the Exchange's general expense ledger to determine whether each such expense relates to the proposed fees, and, if such expense did so relate, what portion (or percentage) of such expense actually supports the services included in the proposed fees. The sum of all such portions of expenses represents the total cost of the Exchange to provide the proposed fees. For the avoidance of doubt, no expense amount was allocated twice. The Exchange is also providing detailed information regarding the Exchange's cost allocation methodology—namely, information that explains the Exchange's rationale for determining that it was reasonable to allocate certain expenses described in this filing towards the total cost to the Exchange to provide the proposed fees.

In order to determine the Exchange's projected revenues associated with providing the proposed fees, the Exchange analyzed the number of Members and non-Members currently utilizing the Exchange's services associated with the proposed fees, and, utilizing a recent monthly billing cycle representative of 2020 monthly revenue,

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[15] *See* Securities Exchange Act Release No. 85207 (February 27, 2019), 84 FR 7963 (March 5, 2019) (SR–EMERALD–2019–09) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Establish MIAX Emerald Top of Market (''ToM'') Data Feed, MIAX Emerald Complex Top of Market (''cToM'') Data Feed, MIAX Emerald Administrative Information Subscriber (''AIS'') Data Feed, and MIAX Emerald Order Feed (''MOR'')).

[16] cToM provides subscribers with the same information as the ToM market data product as it relates to the strategy book, *i.e.,* the Exchange's best bid and offer for a complex strategy, with aggregate size, based on displayable order and quoting interest in the complex strategy on the Exchange. cToM also provides subscribers with the identification of the complex strategies currently trading on MIAX Emerald; complex strategy last sale information; and the status of securities underlying the complex strategy (*e.g.,* halted, open, or resumed). cToM is distinct from ToM, and anyone wishing to receive cToM data must subscribe to cToM regardless of whether they are a current ToM subscriber. ToM subscribers are not required to subscribe to cToM, and cToM subscribers are not required to subscribe to ToM. *See id.*

[17] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). The number of orders shall be counted in accordance with Interpretation and Policy .01 to Exchange Rule 100. *See* Exchange Rule 100.

[18] *See* Nasdaq PHLX LLC Pricing Schedule, Options 7, Section 10, Proprietary Data Feed Fees; Cboe BZX Exchange, Inc. Fee Schedule, Market Data Fees; Cboe Data Services, LLC, Fee Schedule.

extrapolated annualized revenue on a going-forward basis. The Exchange does not believe it is appropriate to factor into its analysis future revenue growth or decline into its projections for purposes of these calculations, given the uncertainty of such projections due to the continually changing market data needs of market participants, market participant consolidation, etc. Additionally, the Exchange similarly does not factor into its analysis future cost growth or decline.

The Exchange is presenting its revenue and expense associated with the proposed fees in this filing in a manner that is consistent with how the Exchange presents its revenue and expense in its Audited Unconsolidated Financial Statements. The Exchange's most recent Audited Unconsolidated Financial Statement is for 2019. However, since the revenue and expense associated with the proposed fees were not in place in 2019 or for the first three quarters of 2020, the Exchange believes its 2019 Audited Unconsolidated Financial Statement is not useful for analyzing the reasonableness of the total annual revenue and costs associated with the proposed fees. Accordingly, the Exchange believes it is more appropriate to analyze the proposed fees utilizing its 2020 revenue and costs, as described herein, which utilize the same presentation methodology as set forth in the Exchange's previously-issued Audited Unconsolidated Financial Statements. Based on this analysis, the Exchange believes that the proposed fees are fair and reasonable because they will not result in excessive pricing or supra-competitive profit when comparing the Exchange's total annual expense associated with providing the services associated with the proposed fees versus the total projected annual revenue the Exchange will collect for providing those services.

* * * * *

On March 29, 2019, the Commission issued its Order Disapproving Proposed Rule Changes to Amend the Fee Schedule on the BOX Market LLC Options Facility to Establish BOX Connectivity Fees for Participants and Non-Participants Who Connect to the BOX Network (the ''BOX Order'').[19] On May 21, 2019, the Commission issued the Staff Guidance on SRO Rule Filings Relating to Fees.[20] Accordingly, the Exchange believes that the proposed fees are consistent with the Act because they (i) are reasonable, equitably allocated, not unfairly discriminatory, and not an undue burden on competition; (ii) comply with the BOX Order and the Guidance; (iii) are supported by evidence (including comprehensive revenue and cost data and analysis) that they are fair and reasonable because they do not result in excessive pricing or supra-competitive profit; and (iv) utilize a cost-based justification framework. Accordingly, the Exchange believes that the Commission should find that the proposed fees are consistent with the Act.

The proposed rule change is immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[21] in general, and furthers the objectives of Section 6(b)(4) of the Act[22] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act 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 and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

Separately, the Exchange is not aware of any reason why market participants could not simply drop their market data subscriptions to an exchange (or not subscribe to market data feeds of an exchange) if an exchange were to establish prices for its market data fees that, in the determination of such market participant, did not make business or economic sense for such market participant. No options market participant is required by rule or regulation to subscribe to market data feeds of an options exchange. As evidence of the fact that market participants can and do unsubscribe from an exchange's market data feeds based on pricing, the Exchange notes that, since it issued its notice for the proposed fees, one Member terminated its market data feed subscriptions as a result of the proposed fees. Accordingly, this example shows that if an exchange sets too high of a fee for its market data products, market participants can choose to not purchase market data or simply unsubscribe from an exchange's market data feeds.

The Exchange believes that its proposal is consistent with Section 6(b)(4) of the Act because the proposed fees will not result in excessive or supra-competitive profit. The costs associated with providing market data to Exchange Members and non-Members, as well as the general expansion of a state-of-the-art infrastructure, are extensive, have increased year-over-year, and are projected to increase year-over-year in the future. In particular, the Exchange has experienced a material increase in its costs in 2020, in connection with a project to make its network environment more transparent and deterministic, based on customer demand. This project will allow the Exchange to enhance its network architecture with the intent of ensuring a best-in-class, transparent and deterministic trading system while maintaining its industry leading latency and throughput capabilities. In order to provide this greater amount of transparency and higher determinism, MIAX Emerald has made significant capital expenditures (''CapEx''), incurred increased ongoing operational expenditures (''OpEx''), and undertaken additional engineering research and development (''R&D'') in the following areas: (i) Implementing an improved network design to ensure the minimum latency between multicast market data signals disseminated by the Exchange across the extranet switches, improving the unicast jitter profile to reduce the occurrence of message sequence inversions from Members to the Exchange quoting gateway processors, and introducing a new optical fiber network infrastructure that ensures the optical fiber path for participants within extremely tight tolerances; (ii) introducing a re-architected and engineered participant quoting gateway that ensures the delivery of messages to the match engine with absolute determinism, eliminating the message processing inversions that can occur with messages received nanoseconds apart; and (iii) designing an improved monitoring platform to better measure the performance of the network and systems at extremely tight tolerances and to provide Members with reporting on the performance of their systems. The CapEx associated with only phase

[19] *See* Securities Exchange Act Release No. 85459 (March 29, 2019), 84 FR 13363 (April 4, 2019) (SR–BOX–2018–24, SR–BOX–2018–37, and SR–BOX–2019–04).

[20] *See* Staff Guidance on SRO Rule Filings Relating to Fees (May 21, 2019), at *https://www.sec.gov/tm/staff-guidance-sro-rule-filings-fees* (the ''Guidance'').

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(4) and (5).

1 of this project in 2020 was approximately $1.85 million. This expense does not include the significant increase in employee time and other resources necessary to maintain and service this network, which expense is captured in the operating expense discussed below. This project, which results in a material increase in expense of the Exchange, is, among other things, intended to enhance the overall trading experience at the Exchange, making it a venue that market participants want to access, thereby creating greater value in the Exchange's market data products.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to assess internal distributors fees that are less than the fees assessed for external distributors for subscriptions to the Exchange's ToM, AIS and MOR data feeds because internal distributors have limited, restricted usage rights to the market data, as compared to external distributors which have more expansive usage rights. All Members and non-Members that determine to receive any market data feed of the Exchange (or its affiliates, MIAX and MIAX PEARL), must first execute, among other things, the MIAX Exchange Group Exchange Data Agreement (the ''Exchange Data Agreement'').[23] Pursuant to the Exchange Data Agreement, Internal Distributors are restricted to the ''internal use'' of any market data they receive. This means that Internal Distributors may only distribute the Exchange's market data to the recipient's officers and employees and its affiliates.[24] External Distributors may distribute the Exchange's market data to persons who are not officers, employees or affiliates of the external distributor,[25] and may charge their own fees for the distribution of such market data. Accordingly, the Exchange believes it is fair, reasonable and not unfairly discriminatory to assess External Distributors a higher fee for the Exchange's market data products as External Distributors have greater usage rights to commercialize such market data. It also costs the Exchange more to support External Distributors versus internal distributors, as External Distributors have reporting and monitoring obligations that Internal Distributors do not have, thus requiring additional time and effort of Exchange staff. The Exchange believes the proposed fees are a reasonable allocation of its costs and expenses among its Members and other persons using its facilities since it is recovering the costs associated with distributing such data. Access to the Exchange is provided on fair and non-discriminatory terms. The Exchange believes the proposed fees are equitable and not unfairly discriminatory because the fee level results in a reasonable and equitable allocation of fees amongst users for similar services. Moreover, the decision as to whether or not to purchase market data is entirely optional to all users. Potential purchasers are not required to purchase the market data, and the Exchange is not required to make the market data available. Purchasers may request the data at any time or may decline to purchase such data. The allocation of fees among users is fair and reasonable because, if the market deems the proposed fees to be unfair or inequitable, firms can diminish or discontinue their use of this data.

The Exchange only has four primary sources of revenue: Transaction fees, access fees, regulatory fees, and market data fees. Accordingly, the Exchange must cover all of its expenses from these four primary sources of revenue.

The Exchange believes that the proposed fees are fair and reasonable because they will not result in excessive pricing or supra-competitive profit, when comparing the total annual expense that the Exchange projects to incur in connection with providing these products versus the total annual revenue that the Exchange projects to collect in connection with the proposed market data fees. For 2020,[26] the total annual expense for providing the market data products associated with the proposed fees for MIAX Emerald is projected to be approximately $1,040,064. The $1,040,064 in projected total annual expense is comprised of the following, all of which are directly related to providing the market data products associated with the proposed fees: (1) Third-party expense, relating to fees paid by MIAX Emerald to third-parties for certain products and services; and (2) internal expense, relating to the internal costs of MIAX Emerald to provide the market data products associated with the proposed fees.

The Exchange notes that the MIAX Emerald architecture takes advantage of an advance in design to eliminate the need for a market data distribution gateway layer. The computation and dissemination via an application program interface (''API'') is done solely within the match engine environment and is then delivered via the Member and non-Member connectivity infrastructure. This architecture delivers a market data distribution system that is more efficient both in cost and performance. Earlier implementations like those implemented for the Exchange's affiliates, Miami International Securities Exchange, LLC (''MIAX'') and MIAX PEARL, LLC (''MIAX PEARL''), require an additional server hardware level and network infrastructure making them more expensive to deploy, operate and maintain. All capital and operational expenses to support market data generation are a percentage of the total cost to support the MIAX Emerald match engines (both in capital and operational expense). The Exchange believes that 10% of the functionality and support infrastructure is required to support the computation and dissemination of market data at the match engine layer, which serves as the basis for its cost allocation for market data products. Approximately 10% of the Exchange staff are required to support market data and fall under two categories: (1) The technical development, maintenance, operation and administration of market data computation and delivery; and (2) non-technical administration including managing market data agreements and the auditing and tracking of member and non-member market data usage.

As noted above, the Exchange believes it is more appropriate to analyze the proposed fees utilizing its 2020 revenue and costs, which utilize the same presentation methodology as set forth in the Exchange's previously-issued Audited Unconsolidated Financial Statements.[27] The $1,040,064 in projected total annual expense is directly related to providing the market data products associated with the proposed fees, and not any other product or service offered by the Exchange. No expense amount was allocated twice.

As discussed, the Exchange conducted an extensive cost review in

[23] *See* Exchange Data Agreement, available at *https://miaxweb2.pairsite.com/sites/default/files/page-files/MIAX_Exchange_Group_Data_Agreement_09032020.pdf.*

[24] *See id.*

[25] *See id.*

[26] The Exchange has not yet finalized its 2020 year end results.

[27] For example, the Exchange previously noted that all third-party expense described in its prior fee filing was contained in the information technology and communication costs line item under the section titled ''Operating Expenses Incurred Directly or Allocated From Parent,'' in the Exchange's 2019 Form 1 Amendment containing its financial statements for 2018. *See* Securities Exchange Act Release No. 87877 (December 31, 2019), 85 FR 738 (January 7, 2020) (SR–EMERALD–2019–39). Accordingly, the third-part expense described in this filing is attributed to the same line item for the Exchange's 2020 Form 1 Amendment, which will be filed in 2021.

which the Exchange analyzed every expense item in the Exchange's general expense ledger (this includes over 150 separate and distinct expense items) to determine whether each such expense relates to providing the market data products associated with the proposed fees, and, if such expense did so relate, what portion (or percentage) of such expense actually supports those products, and thus bears a relationship that is, ''in nature and closeness,'' directly related to those products. The sum of all such portions of expenses represents the total cost of the Exchange to provide the market data products associated with the proposed fees.

For 2020, total third-party expense, relating to fees paid by MIAX Emerald to third-parties for certain products and services for the Exchange to be able to provide the market data products associated with the proposed fees, is projected to be $19,105. This includes, but is not limited to, a portion of the fees paid to: (1) Equinix, for data center services, for the primary, secondary, and disaster recovery locations of the MIAX Emerald trading system infrastructure; (2) Zayo Group Holdings, Inc. (''Zayo'') for network services (fiber and bandwidth products and services) linking MIAX Emerald's office locations in Princeton, NJ and Miami, FL to all data center locations; (3) Secure Financial Transaction Infrastructure (''SFTI''),[28] which supports connectivity and feeds for the entire U.S. options industry; (4) various other services providers (including Thompson Reuters, NYSE, Nasdaq, and Internap), which provide content, connectivity services, and infrastructure services for critical components of options connectivity and network services; and (5) various other hardware and software providers (including Dell and Cisco, which support the production environment in which Members connect to the network to trade, receive market data, etc.).

For clarity, only a portion of all fees paid to such third-parties is included in the third-party expense herein, and no expense amount is allocated twice. Accordingly, MIAX Emerald does not allocate its entire information technology and communication costs to providing the market data products associated with the proposed fees.

The Exchange believes it is reasonable to allocate such third-party expense described above towards the total cost to the Exchange to provide the market data products associated with the proposed fees. In particular, the Exchange believes it is reasonable to allocate the identified portion of the Equinix expense because Equinix operates the data centers (primary, secondary, and disaster recovery) that host the Exchange's network infrastructure. This includes, among other things, the necessary storage space, which continues to expand and increase in cost, power to operate the network infrastructure, and cooling apparatuses to ensure the Exchange's network infrastructure maintains stability. Without these services from Equinix, the Exchange would not be able to operate and support the network and provide the market data products associated with the proposed fees to its Members and their customers. The Exchange did not allocate all of the Equinix expense toward the cost of providing the market data products associated with the proposed fees, only that portion which the Exchange identified as being specifically mapped to providing the market data products associated with the proposed fees, approximately 1% of the total Equinix expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the market data products associated with the proposed fees, and not any other product or service, as supported by its cost review.

The Exchange believes it is reasonable to allocate the identified portion of the Zayo expense because Zayo provides the internet, fiber and bandwidth connections with respect to the network, linking MIAX Emerald with its affiliates, MIAX and MIAX PEARL, as well as the data center and disaster recovery locations. As such, all of the trade data, including the billions of messages each day per exchange, flow through Zayo's infrastructure over the Exchange's network. Without these services from Zayo, the Exchange would not be able to operate and support the network and provide the market data products associated with the proposed fees. The Exchange did not allocate all of the Zayo expense toward the cost of providing the market data products associated with the proposed fees, only the portion which the Exchange identified as being specifically mapped to providing the market data products associated with the proposed fees, approximately 1% of the total Zayo expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the market data products associated with the proposed fees, and not any other product or service, as supported by its cost review.

The Exchange did not allocate any expense associated with the proposed fees towards SFTI and various other service providers' (including Thompson Reuters, NYSE, Nasdaq, and Internap) because, as described above, the MIAX Emerald architecture takes advantage of an advance in design to eliminate the need for a market data distribution gateway layer. The computation and dissemination via an API is done solely within the match engine environment and is then delivered via the member and non-member connectivity infrastructure. This architecture delivers a market data system that is more efficient both in cost and performance. Accordingly, the Exchange determined not to allocate any expense associated with SFTI and various other service providers.

The Exchange believes it is reasonable to allocate the identified portion of the other hardware and software provider expense because this includes costs for dedicated hardware licenses for switches and servers, as well as dedicated software licenses for security monitoring and reporting across the network. Without this hardware and software, the Exchange would not be able to operate and support the network and provide the market data products. The Exchange did not allocate all of the hardware and software provider expense toward the cost of providing the market data products associated with the proposed fees, only the portions which the Exchange identified as being specifically mapped to providing the market data products associated with the proposed fees, approximately 1% of the total hardware and software provider expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the market data products associated with the proposed fees.

For 2020, total projected internal expense, relating to the internal costs of MIAX Emerald to provide the market data products associated with the proposed fees, is projected to be $1,020,959. This includes, but is not limited to, costs associated with: (1) Employee compensation and benefits for full-time employees that support the market data products associated with the proposed fees, including staff in network operations, trading operations, development, system operations,

[28] In fact, on October 22, 2019, the Exchange was notified by SFTI that it is again raising its fees charged to the Exchange by approximately 11%, without having to show that such fee change complies with the Act by being reasonable, equitably allocated, and not unfairly discriminatory. It is unfathomable to the Exchange that, given the critical nature of the infrastructure services provided by SFTI, that its fees are not required to be rule-filed with the Commission pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder. *See* 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively.

business, as well as staff in general corporate departments (such as legal, regulatory, and finance) that support those employees and functions (including an increase as a result of the higher determinism project); (2) depreciation and amortization of hardware and software used to provide the market data products associated with the proposed fees, including equipment, servers, cabling, purchased software and internally developed software used in the production environment to support the network for trading; and (3) occupancy costs for leased office space for staff that provide the market data products associated with the proposed fees. The breakdown of these costs is more fully-described below. For clarity, only a portion of all such internal expenses are included in the internal expense herein, and no expense amount is allocated twice. Accordingly, MIAX Emerald does not allocate its entire costs contained in those items to the market data products associated with the proposed fees.

The Exchange believes it is reasonable to allocate such internal expense described above towards the total cost to the Exchange to provide the market data products associated with the proposed fees. In particular, MIAX Emerald's employee compensation and benefits expense relating to providing the market data products associated with the proposed fees is projected to be $935,400, which is only a portion of the $9,354,009 total projected expense for employee compensation and benefits. The Exchange believes it is reasonable to allocate the identified portion of such expense because this includes the time spent by employees of several departments, including Technology, Back Office, Systems Operations, Networking, Business Strategy Development (who create the business requirement documents that the Technology staff use to develop market data products and enhancements), Trade Operations, Finance (who provide billing and accounting services relating to the market data products), and Legal (who provide legal services relating to the market data products, such as rule filings and various license agreements and other contracts). As part of the extensive cost review conducted by the Exchange, the Exchange reviewed the amount of time spent by each employee on matters relating to the provision of the market data products associated with the proposed fees. Without these employees, the Exchange would not be able to provide the market data products associated with the proposed fees to its Members and their customers. The Exchange did not allocate all of the employee compensation and benefits expense toward the cost of the market data products associated with the proposed fees, only the portions which the Exchange identified as being specifically mapped to providing the market data products associated with the proposed fees, approximately 10% of the total employee compensation and benefits expense. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the market data products associated with the proposed fees, and not any other service, as supported by its cost review.

MIAX Emerald's depreciation and amortization expense relating to providing the market data products associated with the proposed fees is projected to be $38,125, which is only a portion of the $3,812,590 total projected expense for depreciation and amortization. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense includes the actual cost of the computer equipment, such as dedicated servers, computers, laptops, monitors, information security appliances and storage, and network switching infrastructure equipment, including switches and taps that were purchased to operate and support the network and provide the market data products associated with the proposed fees. Without this equipment, the Exchange would not be able to operate the network and provide the market data products associated with the proposed fees to its Members and their customers. The Exchange did not allocate all of the depreciation and amortization expense toward the cost of providing the market data products associated with the proposed fees, only the portion which the Exchange identified as being specifically mapped to providing the market data products associated with the proposed fees, approximately 1% of the total depreciation and amortization expense, as these access services would not be possible without relying on such. The Exchange believes this allocation is reasonable because it represents the Exchange's actual cost to provide the market data products associated with the proposed fees, and not any other product or service, as supported by its cost review.

MIAX Emerald's occupancy expense relating to providing the market data products associated with the proposed fees is projected to be $47,432, which is only a portion of the $474,323 total projected expense for occupancy. The Exchange believes it is reasonable to allocate the identified portion of such expense because such expense represents the portion of the Exchange's cost to rent and maintain a physical location for the Exchange's staff who operate and support the market data products, including providing the services associated with the proposed fees. This amount consists primarily of rent for the Exchange's Princeton, NJ office, as well as various related costs, such as physical security, property management fees, property taxes, and utilities. The Exchange operates its Network Operations Center (''NOC'') and Security Operations Center (''SOC'') from its Princeton, New Jersey office location. A centralized office space is required to house the staff that operate and support the market data products. The Exchange currently has approximately 150 employees. Approximately two-thirds of the Exchange's staff are in the Technology department, and the majority of those staff have some role in the operation and performance of the network that supports the provision of the market data products associated with the proposed fees. Without this office space, the Exchange would not be able to operate and support the network and provide the market data products associated with the proposed fees to its Members and their customers. Accordingly, the Exchange believes it is reasonable to allocate the identified portion of its occupancy expense because such amount represents the Exchange's actual cost to house the equipment and personnel who operate and support the Exchange's network infrastructure and the market data products associated with the proposed fees. The Exchange did not allocate all of the occupancy expense toward the cost of providing the market data products associated with the proposed fees, only the portion which the Exchange identified as being specifically mapped to operating and supporting the market data products, approximately 10% of the total occupancy expense. The Exchange believes this allocation is reasonable because it represents the Exchange's cost to provide the services associated with the proposed fees, and not any other service, as supported by its cost review.

Accordingly, based on the facts and circumstances presented, the Exchange believes that its provision of the market data products associated with the proposed fees will not result in excessive pricing or supra-competitive profit. To illustrate, on a going-forward, fully-annualized basis, the Exchange projects that its annualized revenue for

providing the market data products associated with the proposed fees would be approximately $648,000 per annum, based on a recent billing cycle. The Exchange projects that its annualized expense for providing the market data products associated with the proposed fees would be approximately $1,040,064 per annum. Accordingly, on a fully-annualized basis, the Exchange believes its total projected revenue for providing the market data products associated with the proposed fees will not result in excessive pricing or supra-competitive profit; rather, it will result in a net loss to the Exchange of approximately ($392,064) per year ($648,000 −$1,040,064 = −$392,064).

For the avoidance of doubt, none of the expenses included herein relating to the market data products associated with the proposed fees relate to the provision of any other services offered by MIAX Emerald. Stated differently, no expense amount of the Exchange is allocated twice. The Exchange notes that, with respect to the MIAX Emerald expenses included herein, those expenses only cover the MIAX Emerald market; expenses associated with the Exchange's affiliate exchanges, MIAX and MIAX PEARL, are accounted for separately and are not included within the scope of this filing. Stated differently, no expense amount of the Exchange is also allocated to MIAX or MIAX PEARL.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to allocate the respective percentages of each expense category described above towards the total cost to the Exchange of providing the market data products associated with the proposed fees because the Exchange performed a line-by-line item analysis of all the expenses of the Exchange, and has determined the expenses that directly relate to providing the market data products associated with the proposed fees. Further, the Exchange notes that, without the specific third-party and internal items listed above, the Exchange would not be able to provide the market data products associated with the proposed fees to its Members and their customers. Each of these expense items, including physical hardware, software, employee compensation and benefits, occupancy costs, and the depreciation and amortization of equipment, have been identified through a line-by-line item analysis to be integral to providing these market data products. The proposed fees are intended to recover the Exchange's costs of providing market data to Exchange Members and their customers. Accordingly, the Exchange believes that the proposed fees are fair and reasonable because they do not result in excessive pricing or supra-competitive profit, when comparing the actual costs to the Exchange versus the projected annual revenue from the proposed fees.

Further, the Exchange no longer believes it is necessary to waive these fees to attract market participants to MIAX Emerald since this market is now established and MIAX Emerald no longer needs to rely on such waivers to attract market participants. The Exchange believes that the proposal is equitable and not unfairly discriminatory because the elimination of the fee waiver for the proposed fees will uniformly apply to all market participants of the Exchange. The Exchange also notes that the Exchange's affiliate, MIAX, charges similar market data fees.[29]

The Exchange also points out that it is not seeking to recoup any of its past costs associated with the provision of any market data fees during the Waiver Period. The Exchange currently has 13 subscriptions for its ToM data product; 11 subscriptions for its AIS data product; and 8 subscriptions for its MOR data product. All of these subscribers have not paid any market data fees during the Waiver Period. Further, the majority of firms that are subscribers of the Exchange's affiliate options exchanges, MIAX and MIAX PEARL, also received free market data during similar Waiver Periods for the MIAX and MIAX PEARL market data fees. Accordingly, the Exchange (and MIAX and MIAX PEARL) have assumed 100% of the costs associated with providing market data for the majority of subscribers of the Exchange, MIAX, and MIAX PEARL during their respective Waiver Periods. Accordingly, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to now adopt market data fees that are reasonably related to (and designed to recover) the Exchange's cost associated with the provision of such market data.

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.

Intra-Market Competition

The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As noted above, the proposed fee schedule would apply to all subscribers of the ToM, AIS and MOR data feeds, and customers may choose whether to subscribe to any or all of the feeds. The Exchange also believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue market on competition. Further, the Exchange's proposed market data fee levels, as described herein, are comparable to fee levels charged by other options exchanges for the same or similar services, including those fees assessed by the Exchange's affiliate, MIAX.[30]

The Exchange believes that the proposed market data fees do not place certain market participants at a relative disadvantage to other market participants because the fees do not apply unequally to different size market participants, but instead would allow the Exchange charge for the time and resource necessary for providing market data to the market participants that request such data. Accordingly, the Exchange believes that the proposed market data fees do not favor certain categories of market participants in a manner that would impose a burden on competition.

Inter-Market Competition

The Exchange believes the proposed fees do not place an undue burden on competition on other SROs that is not necessary or appropriate. The Exchange notes that its data feed prices are generally lower than other options exchanges' data feed prices for their comparable data feed products.[31] The Exchange notes that it has far less Members as compared to the much greater number of members at other options exchanges resulting in fewer market data subscribers. The Exchange is also unaware of any assertion that its proposed market data fees would somehow unduly impair its competition with other options exchanges. To the contrary, if the proposed market data fees are deemed too high by market participants, they can simply discontinue their market data subscriptions with the Exchange, as one such Member has already done (as described above).

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.

[29] *See* MIAX Fee Schedule, Section 6(a)–(c).

[30] *See id.*

[31] *See supra* note 18.

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)(ii) of the Act,[32] and Rule 19b–4(f)(2)[33] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–EMERALD–2021–05 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–2021–05. 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–2021–05, and should be submitted on or before March 16, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03549 Filed 2–22–21; 8:45 am]

BILLING CODE 8011–01–P

[32] 15 U.S.C. 78s(b)(3)(A)(ii).

[33] 17 CFR 240.19b–4(f)(2).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–10927, 34–91150; File No. 265–28]

Investor Advisory Committee Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a public meeting. The public is invited to submit written statements to the Committee.

DATES: The meeting will be held on Thursday, March 11, 2021 from 10:00 a.m. until 4:00 p.m. (ET). Written statements should be received on or before March 10, 2021.

ADDRESSES: The meeting will be conducted by remote means and/or at the Commission's headquarters, 100 F St. NE, Washington, DC 20549. The meeting will be webcast on the Commission's website at *www.sec.gov.* Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov.* Please include File No. 265–28 on the subject line; or

Paper Statements

- Send paper statements to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Room 1503, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements 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.

FOR FURTHER INFORMATION CONTACT: Marc Oorloff Sharma, Chief Counsel, Office of the Investor Advocate, at (202) 551–3302, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, except during that portion of the meeting reserved for an administrative work session during lunch. Persons needing special accommodations to take part because of a disability should notify the contact person listed in the section above entitled **FOR FURTHER INFORMATION CONTACT**. The agenda for the meeting includes: Welcome remarks; approval of previous meeting minutes; a follow-on panel discussion regarding self-directed individual retirement accounts (IRAs); a panel discussion regarding special purpose acquisition companies (SPACs); a discussion of a recommendation regarding minority and underserved inclusion; a discussion of a recommendation regarding credit rating agencies; subcommittee reports; and a non-public administrative session.

Dated: February 17, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–03563 Filed 2–22–21; 8:45 am]

BILLING CODE 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 April 26, 2021.

ADDRESSES: Send all comments to, Cynthia Pitts, Office of Disaster Assistance, Small Business Administration.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, *Cynthia.pitts@sba.gov,* (202) 205–7570.

SUPPLEMENTARY INFORMATION: The *Coronavirus Aid, Relief, and Economic Security Act,* Public Law 116–136 (April 27, 2020) authorized SBA to provide an Advance of up to $10,000 to applicants who applied for an economic injury disaster loan (EIDL) in response to the COVID–19 pandemic. SBA developed a streamlined information collection to implement this EIDL Advance authority, including a Self-Certification for Verification of Eligible Entity for Emergency EIDL Advance, SBA Form 3503, along with several other forms used to collect information for COVID–EIDL loans. (OMB Control Number 3245–0406). On July 10, 2020, SBA revised this information collection to remove all references to the EIDL Advance, because the appropriated funds for the EIDL Advance program had been exhausted. SBA received additional funds under the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, (Economic Aid Act), Public Law 116–260, Div. N, Title III, Sec. 323 (December 27, 2020), to provide additional Advances subject to certain conditions. Specifically, Section 331 of the Economic Aid Act requires SBA to provide Targeted EIDL Advances (Targeted EIDL Advance) to certain entities that previously received an EIDL Advance of less than $10,000; entities that previously applied for a COVID–EIDL, but did not receive an EIDL Advance because there were no funds available; and to new COVID–EIDL applicants, subject to the availability of funds. Eligible entities must be located in a low-income community, must have 300 or fewer employees, must have economic losses of greater than 30 percent, and must meet all other eligibility requirements applicable to EIDLs. SBA has created a new application (Form 3514) to collect the information necessary to implement the Targeted EIDL Advance authority. Because the need for this financial assistance is so critical, SBA requested and received emergency approval under 5 CFR 1320.13 for this new information collection. The information will be collected from applicants (small businesses and nonprofits) that are eligible to apply for a Targeted EIDL Advance. SBA's Office of Disaster Assistance (ODA) will use the information in determining whether to approve or disapprove the application.

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

PRA Number: 3245–0419.

(1) *Title:* Application for COVID–19 Targeted Advance.

Description of Respondents: Individual seeking COVID–19 Economic Injury Disaster Loan Targeted Advance.

Form Number: SBA Form 3514.

Total Estimated Annual Responses: 8,625,250.

Total Estimated Annual Hour Burden: 4,312,625.

Curtis Rich,

Management Analyst.

[FR Doc. 2021–03695 Filed 2–22–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16872 and #16873; Alaska Disaster Number AK–00047]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Alaska

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of ALASKA (FEMA–4585–DR), dated 02/17/2021.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 11/30/2020 through 12/02/2020.

DATES: Issued on 02/17/2021.

Physical Loan Application Deadline Date: 04/19/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 11/17/2021.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/17/2021, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Areas: Chatham REAA, City and Borough Of Juneau, Haines Borough, Municipality Of Skagway, Petersburg Borough.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 16872 6 and for economic injury is 16873 0.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2021–03623 Filed 2–22–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before March 25, 2021.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain*

SUPPLEMENTARY INFORMATION: A small business determined to be non-responsible for award of a specific prime Government contract by a Government contracting office has the right to appeal that decision through the Small Business Administration (SBA). The information contained on this form, as well as, other information developed by SBA, is used in determining whether the decision by the Contracting Officer should be overturned.

Solicitation of Public Comments: Comments may be submitted 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.

OMB Control Number: 3245–0225.

Title: Small Business Administration Application for Certificate of Competency.

SBA Form Number: 1531.

Description of Respondents: Small Businesses.

Estimated Annual Responses: 300.

Estimated Annual Hour Burden: 2,400.

Curtis Rich,

Management Analyst.

[FR Doc. 2021–03680 Filed 2–22–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before March 25, 2021.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/*PRAMain. Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: Section 310(d)(1)(C)(i) of the Small Business Investment Act of 1958 requires Small Business Investment Companies (SBICs) to submit audited financial statements to SBA at least annually. SBA regulations at 13 CFR 107.630 requires the use of SBA Form 468 when submitting the financial statements and supporting documentation. The information collected is used to determine the creditworthiness of an SBIC when considering its leverage application and to monitor its financial condition after assistance is provided. The information is also used to evaluate an SBICs' compliance with certain regulations, such as the activity requirements in 13 CFR 107.590 and the portfolio diversification requirements in 13 CFR 107.740.

Solicitation of Public Comments

Comments may be submitted 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.

OMB Control Number: 3245–0063.

Title: SBIC Financial Reports.

SBA Form Number: 468.1, 468.2, 468.3, 468.4.

Description of Respondents: Small Business Investment Companies.

Estimated Number of Respondents: 406.

Estimated Annual Responses: 1,000.

Estimated Annual Hour Burden: 24,708.

Curtis Rich,

Management Analyst.

[FR Doc. 2021–03679 Filed 2–22–21; 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. Unless waived, 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.

DATES: Submit comments on or before April 26, 2021.

ADDRESSES: Send all comments to, Cynthia Pitts, Office of Disaster Assistance, Small Business Administration.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, *cynthia.pitts@sba.gov,* (202) 205–7570.

SUPPLEMENTARY INFORMATION: As authorized by the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the Paycheck Protection Program and Health Care Enhancement Act, and the new Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, the Small Business Administration (SBA) has been providing COVID–19 Economic Injury Disaster Loans to provide working capital for small businesses, private nonprofits, and small agricultural enterprises who suffered substantial economic injury as a result of the Coronavirus pandemic. SBA has received more than 16 million loan applications and a small percentage of those applications may be a result of identity theft. In an effort to ensure SBA is taking the appropriate action for individuals who have indicated they have been the victim of identity theft, the individual will need to provide an affidavit to SBA indicating no involvement in the filing of the loan application, and that they did not receive or have knowledge of who received the loan funds. The information will be collected from those individuals (or their representative) who, without their knowledge or authorization, had an application submitted to SBA's Office of Disaster Assistance (ODA) utilizing their personal information. ODA will review the information contained in the affidavit to determine whether there was identity theft involved, and if so, ODA will take the necessary steps to stop all billing statements, release any UCC Security filings, and to ensure that loan information will not be publicly reported in the name of the identity theft victim. In addition, this affidavit will be provided to the Office of Inspector General and other enforcement agencies in any legal action going forward. The SBA requested and received emergency approval under 5 CFR 1320.13 for this information collection.

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

OMB Control Number: 3245–0418.

(1) *Title:* Economic Injury Disaster Loan (EIDL) Application Declaration of Identify Theft COVID–19.

Description of Respondents: Individuals who have identified and attest to potential identity theft.

Form Number: SBA Form 3513.

Total Estimated Annual Responses: 50,000.

Total Estimated Annual Hour Burden: 12,500.

Curtis Rich,

Management Analyst.

[FR Doc. 2021–03696 Filed 2–22–21; 8:45 am]

BILLING CODE 8026–03–P

SURFACE TRANSPORTATION BOARD

Release of Waybill Data

The Surface Transportation Board has received a request from the Chicago Region Environmental and Transportation Efficiency Program (WB21–19—2/10/21) for permission to use select data from the Board's 2018–2019 Masked Carload Waybill Sample. A copy of this request may be obtained from the Board's website under docket no. WB21–19.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Alexander Dusenberry, (202) 245–0319.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2021–03615 Filed 2–22–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36377 (Sub-No. 3)]

BNSF Railway Company—Trackage Rights Exemption—Union Pacific Railroad Company

By petition filed on December 28, 2020, BNSF Railway Company (BNSF) requests that the Board partially revoke the trackage rights exemption granted to it under 49 CFR 1180.2(d)(7) in Docket No. FD 36377 (Sub-No. 2), as necessary to permit that trackage rights arrangement to expire at midnight on December 31, 2021.

As explained by BNSF in its verified notice of exemption in Docket No. FD 36377 (Sub-No. 2), BNSF and Union Pacific Railroad Company (UP) entered into an agreement granting BNSF restricted, local trackage rights over two rail lines owned by UP between: (1) UP milepost 93.2 at Stockton, Cal., on UP's Oakland Subdivision, and UP milepost 219.4 at Elsey, Cal., on UP's Canyon Subdivision, a distance of 126.2 miles; and (2) UP milepost 219.4 at Elsey, and UP milepost 280.7 at Keddie, Cal., on UP's Canyon Subdivision, a distance of 61.3 miles (collectively, the Lines). BNSF Verified Notice of Exemption 1 n.1, 2, *BNSF Ry.—Trackage Rts. Exemption—Union Pac. R.R.,* FD 36377 (Sub-No. 2). BNSF further stated that the trackage rights arrangement is intended to permit BNSF to move empty and loaded unit ballast trains to and from the ballast pit located at Elsey. *Id.* BNSF filed its verified notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7), explaining that, because the trackage rights covered by the notice in Docket No. FD 36377 (Sub-No. 2) are local rather than overhead rights, they do not qualify for the Board's class exemption for temporary trackage rights under 49 CFR 1180.2(d)(8). BNSF Verified Notice of Exemption 1 n.1, *BNSF Ry.—Trackage Rts. Exemption—Union Pac. R.R.,* FD 36377 (Sub-No. 2).

In its petition, BNSF asks the Board to partially revoke the exemption as necessary to permit the trackage rights to expire at midnight on December 31, 2021, pursuant to the parties' agreement. (*See* BNSF Pet. 1–2); *see also* BNSF Verified Notice of Exemption Ex. B at 2, *BNSF Ry.—Trackage Rts. Exemption—Union Pac. R.R.,* FD 36377 (Sub-No. 2). BNSF argues that granting this petition will promote the rail transportation policy and that the revocation would be consistent with the limited scope of the transaction and would not have an adverse effect on shippers. (BNSF Pet. 3.) In addition, BNSF asserts that the Board has granted similar petitions for partial revocation to permit temporary trackage rights to expire, including a petition filed last year in Docket No. FD 36377 (Sub-No. 1), involving a prior iteration of the trackage rights agreement at issue here. (*Id.*)

Discussion and Conclusions

Although BNSF and UP have expressly agreed on the duration of the proposed trackage rights agreement, trackage rights approved under the class exemption at 1180.2(d)(7) typically

remain effective indefinitely, regardless of any contract provisions. Occasionally, however, the Board has partially revoked a trackage rights exemption to allow those rights to expire after a limited time period rather than lasting in perpetuity. *See, e.g., BNSF Ry.—Trackage Rts. Exemption—Union Pac. R.R.,* FD 36377 (Sub-No. 1) (STB served Mar. 11, 2020) (granting a petition to partially revoke a trackage rights exemption involving the Lines at issue in this case); *New Orleans Pub. Belt R.R.—Trackage Rts. Exemption—Ill. Cent. R.R.,* FD 36198 (Sub-No. 1) (STB served June 20, 2018).

Granting partial revocation in these circumstances to permit the trackage rights to expire at the end of 2021 would eliminate the need for BNSF to file a second pleading seeking discontinuance authority when the agreement expires, thereby promoting the aspects of the rail transportation policy at 49 U.S.C. 10101(2), (7), and (15). Moreover, partially revoking the exemption to limit the term of the trackage rights would have no adverse impact on shippers because the trackage rights at issue are solely to allow BNSF to move empty and loaded ballast trains to and from the ballast pit in Elsey for use in BNSF's maintenance-of-way projects. (*See* BNSF Pet. 2.) Therefore, the Board will grant the petition and permit the trackage rights exempted in Docket No. FD 36377 (Sub-No. 2) to expire at midnight on December 31, 2021.

To provide the statutorily mandated protection to any employee adversely affected by the discontinuance of trackage rights, the Board will impose the employee protective conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

It is ordered:

1. The petition for partial revocation of the trackage rights class exemption is granted.

2. As discussed above, the trackage rights in Docket No. FD 36377 (Sub-No. 2) are permitted to expire at midnight on December 31, 2021, subject to the employee protective conditions set forth in *Oregon Short Line.*

3. Notice of this decision will be published in the **Federal Register**.

4. This decision is effective on March 25, 2021. Petitions for stay must be filed by March 5, 2021. Petitions for reconsideration must be filed by March 15, 2021.

Decided: February 17, 2021.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2021–03670 Filed 2–22–21; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2021–2049]

Petition for Exemption; Summary of Petition Received; Accelerated Aviation Instruction, LLC

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before March 15, 2021.

ADDRESSES: Send comments identified by docket number FAA–2020–1153 using any of the following methods:

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

Privacy: 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 *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Megan Blatchford, (202) 267–9677, *Megan.B.Blatchford@faa.gov,* Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Timothy R. Adams,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2020–1153.

Petitioner: Accelerated Aviation Instruction, LLC.

Section of 14 CFR Affected: § 61.129(b)(3)(ii).

Description of Relief Sought: Accelerated Aviation Instruction, LLC (AAI) seeks relief from § 61.129(b)(3)(ii) of Title 14, Code of Federal Regulations to allow AAI to use a multiengine airplane with a fixed landing gear (Partenavia P68C) in place of a complex multi-engine or turbine powered airplane to satisfy the experience requirements for commercial pilot certificate with an airplane multiengine rating.

[FR Doc. 2021–03631 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2020–0053]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from seven individuals for

an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: Comments must be received on or before March 25, 2021.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2020–0053 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/docket?D=FMCSA-2020-0053.* Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, 20590–0001 between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

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 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. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2020–0053), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov/docket?D=FMCSA-2020-0053.* Click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. 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/docket?D=FMCSA-2020-0053* 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 20590–0001, 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.

C. 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.dot.gov/privacy.*

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The seven individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the ME in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

As a result of MEs misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified ME based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a Notice of Final Disposition titled, ''Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders,'' (78 FR 3069), its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate CMV drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' Since that time, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in § 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (78 FR 3069).

III. Qualifications of Applicants

Sayed K. Abbed

Mr. Abbed is a 40-year old class C license holder in Illinois. He has a history of focal seizure, and has been seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since 2012. His physician states that he is supportive of Mr. Abbed receiving an exemption.

Devante Carter

Mr. Carter is a 23-year old class D license holder in Illinois. He has a history of epilepsy, and has been seizure free since 2009. He has not taken anti-seizure medication since 2012. His physician states that she is supportive of Mr. Carter receiving an exemption.

David R. Frantz

Mr. Frantz is a 56-year old class CM license holder in Pennsylvania. He has a history of epilepsy and has been seizure free since 2011. He has not taken anti-seizure medication since 2012. His physician states that he is supportive of Mr. Frantz receiving an exemption.

Brian P. Klein

Mr. Klein is a 46-year old Operator License holder in Indiana. He has a history of seizures, and has been seizure free since 2008. He takes anti-seizure medication with the dosage and frequency remaining the same since 2008. His physician states that he is supportive of Mr. Klein receiving an exemption.

Thomas A. Marx

Mr. Marx is a 44-year old Driver License holder in Washington. He has a history of epilepsy, and has been seizure free since 1995. He takes anti-seizure medication with the dosage and frequency remaining the same since 1995. His physician states that he is supportive of Mr. Marx receiving an exemption.

Jeffrey Smith, Jr.

Mr. Smith, Jr. is a 42-year old Driver License holder in Florida. He has a history of epilepsy, and has been seizure free since 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since 2016. His physician states that he is supportive of Mr. Smith, Jr. receiving an exemption.

Eric R. Smits

Mr. Smits is a 52-year old Driver License holder in Wisconsin. He has a history of seizures, and has been seizure free since September 2012. He takes anti-seizure medication with the dosage and frequency remaining the same since September 2012. His physician states that he is supportive of Mr. Smits receiving an exemption.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–03697 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2021–0003]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 11 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. If granted, the exemptions will enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Comments must be received on or before March 25, 2021.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2021–0003 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/docket?D=* FMCSA-2021-0003. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

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 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. Submitting Comments

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2021–0003), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov/docket?D=FMCSA-2021-0003.* Click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. 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/docket?D=FMCSA-2021-0003* 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 20590–0001, 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.

C. 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

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The 11 individuals listed in this notice have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

On July 16, 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (57 FR 31458). The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century, Public Law 105–178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of § 391.41(b)(10).

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely in intrastate commerce with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at *https://www.regulations.gov/docket?D=FMCSA-1998-3637.*

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrated the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively.[1] The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

[1] A thorough discussion of this issue may be found in a FHWA final rule published in the **Federal Register** on March 26, 1996 and available on the internet at *https://www.govinfo.gov/content/pkg/FR-1996-03-26/pdf/96-7226.pdf.*

III. Qualifications of Applicants

Antonio R. Barros

Mr. Barros, 53, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20 and in his left eye, 20/200. Following an examination in 2020, his ophthalmologist stated, ''In my medical opinion, Mr. Barros has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Barros reported that he has driven straight trucks for 12 years, accumulating 120,000 miles, and tractor-trailer combinations for 12 years, accumulating 96,000 miles. He holds a Class A CDL from NY. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Robert D. Boudreau

Mr. Boudreau, 54, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20 and in his left eye, 20/350. Following an examination in 2020, his ophthalmologist stated, ''In my medical opinion, Mr. Boudreau has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Boudreau reported that he has driven tractor-trailer combinations for 22 years, accumulating 2.2 million miles. He holds an operator's license from Arizona. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Doris J. Goldsmith

Ms. Goldsmith, 48, has complete loss of vision in her left eye due to a traumatic incident in childhood. The visual acuity in her right eye is 20/20, and in her left eye, hand motion only. Following an examination in 2020, her optometrist stated, ''Her left eye is entirely stable. In my opinion Doris is completely capable of operating a commercial vehicle with no restriction.'' Ms. Goldsmith reported that she has driven straight trucks for 2 years, accumulating 31,200 miles, and tractor-trailer combinations for 20 years, accumulating 2.2 million miles. She holds a Class DA CDL from Kentucky. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Todd C. Kraese

Mr. Kraese, 51, has had a retinal detachment in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2020, his optometrist stated, ''In my opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Kraese reported that he has driven tractor-trailer combinations for 6 years, accumulating 36,000 miles. He holds an operator's license from Indiana. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Kathy A. Mason

Ms. Mason, 55, has a prosthetic right eye due to melanoma in 2012. The visual acuity in her right eye is no light perception, and in her left eye, 20/20. Following an examination in 2020, her optometrist stated, ''Her prosthetic in the left eye will not hinder her driving in any way. She is capable of operating a commercial vehicle or any vehicle thererof.'' Ms. Mason reported that she has driven straight trucks for 20 years, accumulating 200,000 miles, tractor-trailer combinations for 17 years, accumulating 85,000 miles, and buses for 13 years, accumulating 1.56 million miles. She holds a Class A CDL from Texas. Her driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Luke A. Perry

Mr. Perry, 58, has a corneal scar in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/300. Following an examination in 2020, his ophthalmologist stated, ''It is my opinion that Mr. Perry has sufficient vision to operate a commercial vehicle.'' Mr. Perry reported that he has driven straight trucks for 6 years, accumulating 60,000 miles, and tractor-trailer combinations for 3 years, accumulating 330,000 miles. He holds a Class A CDL from Vermont. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Percy C. Robinson

Mr. Robinson, 48, has a retinal detachment in his left eye due to spontaneous degeneration in 2008. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2020, his optometrist stated, ''In my opinion, Mr. Robinson has vision sufficient to perform the driving tasks to operate a commercial vehicle.'' Mr. Robinson reported that he has driven straight trucks for 25 years, accumulating 120,000 miles, and tractor-trailer combinations for 25 years, accumulating 25,000 miles. He holds a Class AM CDL from Alabama. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Harvinder S. Sahota

Mr. Sahota, 38, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2020, his ophthalmologist stated, ''In my medical opinion Harvinder has sufficient vision, color vision and visual fields to perform the driving tasks required to operate a commercial vehicle.'' Mr. Sahota reported that he has driven tractor-trailer combinations for 3 years, accumulating 360,000 miles. He holds a Class A CDL from California. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Michael J. Wells

Mr. Wells, 64, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is hand motion only, and in his left eye, 20/25. Following an examination in 2020 his optometrist stated, ''Mr. Wells has been able to safely operate a commercial vehicle for years and should be able to continue doing so, without his vision impacting that ability.'' Mr. Wells reported that he has driven straight trucks for 25 years, accumulating 1.25 million miles, and tractor-trailer combinations for 25 years, accumulating 5 million miles. He holds a Class A CDL from North Carolina. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Dennis C. Welpe

Mr. Welpe, 55, has a retinal detachment in his in his left eye due to a traumatic incident in 1983. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2020, his ophthalmologist stated, ''It is in my opinion Mr. Welpe has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Welpe reported that he has driven buses for 37 years, accumulating 74,000 miles. He holds a Class B CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Kevin D. White

Mr. White, 48, has a complete loss of vision in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, complete loss of vision. Following an examination in 2021, his

ophthalmologist stated, ''In my medical opinion, I believe Mr. White has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. White reported that he has driven straight trucks for 4 years, accumulating 160,000 miles, and tractor-trailer combinations for 15 years, accumulating 780,000 miles. He holds a Class A CDL from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated under the **DATES** section of the notice.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–03700 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25854; FMCSA–2010–0203; FMCSA–2015–0323; FMCSA–2016–0007; FMCSA–2016–0008; FMCSA–2018–0051; FMCSA–2018–0052; FMCSA–2018–0056]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 10 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

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–2006–25854, FMCSA–2010–0203, FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2016–0008, FMCSA–2018–0051, FMCSA–2018–0052, or FMCSA–2018–0056, 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 20590–0001, 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 January 6, 2021, FMCSA published a notice announcing its decision to renew exemptions for 10 individuals from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) to operate a CMV in interstate commerce and requested comments from the public (86 FR 701). The public comment period ended on February 5, 2021, 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)(8).

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based on its evaluation of the 10 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of January and are discussed below.

As of January 1, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following eight individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers (86 FR 701):

Scott D. Engelman (PA)
Scott I. Habeck (SD)
Todd W. Hines (OH)
Jordan M. Hyster (OH)
Everett J. Letourneau (ND)
Scott A. Ready, Sr. (WI)
Douglas J. Simms, Jr. (NC)
Ronald E. Wagner (OH)

The drivers were included in docket number FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2016–0008, FMCSA–2018–0051, FMCSA–2018–0052, and FMCSA–2018–0056. Their exemptions were applicable as of January 1, 2021, and will expire on January 1, 2023.

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

As of January 15, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Brian Porter (PA); and Michael W. Thomas (KS)

The drivers were included in docket number FMCSA–2006–25854 and FMCSA–2010–0203. Their exemptions were applicable as of January 15, 2021, and will expire on January 15, 2023.

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. 2021–03698 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2019–0174]

Commercial Driver's License Standards: Wilson Logistics

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant Wilson Logistics an exemption from the regulation that requires a commercial learner's permit (CLP) holder operating a commercial moto vehicle (CMV) to be accompanied by a commercial driver's license (CDL) holder with the proper CDL class and endorsements, in the passenger seat. Wilson Logistics requested an exemption to allow CLP holders who have passed the CDL skills test, but have not yet obtained the CDL document from their State of domicile, to drive a CMV without having a CDL holder in the passenger seat. FMCSA has analyzed the exemption application and the public comments and has determined that the exemption, subject to the terms and conditions imposed, will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

DATES: This exemption is effective February 23, 2021 and expires February 23, 2026.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards, FMCSA; Telephone: (202) 366–4225. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, FMCSA–2019–0174, 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 in person by visiting the 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., e.t., 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.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

The Agency's commercial driver's license (CDL) regulations in 49 CFR 383.25(a)(1) require that a commercial learner's permit (CLP) holder always be accompanied by the holder of a valid CDL who has the proper CDL group and endorsement(s) necessary to operate the commercial motor vehicle (CMV). The CDL holder must be physically present in the front seat of the vehicle next to the CLP holder or, in the case of a passenger vehicle, directly behind or in the first row behind the driver and must have the CLP holder under observation and direct supervision.

Wilson Logistics is a nationwide motor carrier with a fleet of over 700 CMVs seeking an exemption from 49 CFR 383.25(a)(1) under which a CDL holder would remain in the vehicle—but not in the front seat—while a CLP holder who has passed the CDL skills test is driving. The carrier believes this would allow the CLP holder to participate more independently in a revenue-generating trip to obtain the CDL document from the State of domicile. Wilson Logistics advised that, if granted, 400–500 CLP holders would operate under the terms of the exemption each year.

Wilson Logistics states that 49 CFR 383.25(a)(1) creates undue burdens on the company and its CLP holders. The carrier noted that, previously:

> It was not uncommon for States to issue temporary CDLs to CLP holders for the return trip to collect the CDL document from their State of domicile. During that time, CDL holders were neither required to log themselves 'on duty' when supervising the CLP holder who had a temporary CDL, nor did they always remain in the passenger seat of the CMV. Under that scenario, the productivity of the CMV, the earnings capacity of the CDL and CLP holders, and the logistics of the motor carrier's freight network were all protected. Currently carriers must assign a second CDL holder to the vehicle to accomplish the on-duty work that was previously performed by the CLP holder who had a temporary CDL.

Wilson Logistics contends that compliance with the CDL rule leaves it with the following two options: (1) Secure some mode of public transportation from the State of training to the State of domicile to allow the CLP holder to pick up his/her CDL document

before returning to Wilson Logistics; or (2) route the team of drivers directly to the CLP holder's State of domicile, often against the natural flow of the freight network. Securing public transportation for each of the CLP holders under the first option entails extreme cost burdens to the company; and the second option, according to Wilson Logistics, introduces extreme cost inefficiencies. The exemption sought would apply only to those Wilson Logistics drivers who have passed the CDL skills test and hold valid CLPs.

IV. Method To Ensure an Equivalent or Greater Level of Safety

Wilson Logistics has a company-sponsored, hands on, on-the-job training program in which CLP holders will spend at least two or three weeks driving over-the-road with a CDL instructor in the passenger seat, and the instructor will supervise all driving and non-driving aspects of the job, including backing and vehicle inspections. Its CLP holders deliver actual loads to real customers on the Nation's highways in all manner of weather and traffic conditions. They are trained on the obstacles of the job well in advance of taking their CDL skills test, and this type of training far better prepares the employees for every part of the job.

If not allowed to run as a team, because the training instructor must sit in the passenger seat until the CLP holder can obtain the CDL document, then the truck can only ''perform'' at the level of a solo driver. In all aspects of their training program, Wilson Logistics ensures that its drivers are held to a higher standard and can therefore achieve a level of safety equal to or greater than the level of a typical new CDL holder. The company does and will provide the required training and recordkeeping to ensure that the equivalent-level-of-safety standard is upheld.

V. Public Comments

On November 6, 2019, FMCSA published notice of the Wilson Logistics application for exemption and requested public comment [84 FR 59761]. A total of 59 comments were filed, one from the Truckload Carriers Association (TCA) and 58 from individuals. Six commenters, including TCA, favor granting the exemption request. TCA noted that the Agency had already granted a similar exemption to C.R. England. TCA added that the regulation creates an undue burden by restricting qualified drivers from piloting a CMV simply because they do not yet have a physical copy of their CDL, despite having passed all necessary written exams and skills tests. TCA reiterated that the drivers covered by this exemption would have in their possession proof of having passed the skills test while on the road; if they had taken the skills test in their State of domicile, they would already have obtained their CDL license document. TCA stated that FMCSA should allow these drivers the flexibility to operate a CMV with a CDL holder present in the vehicle but not in the passenger seat while they are traveling to the CLP holder's State of domicile to obtain that licensing document. Fifty-three individuals opposed the Wilson Logistics request. One stated that ''Wilson Logistics is just looking to profit [from] this and seems not to care about the possible consequences of having a very inexperienced driver at the wheel while the trainer is asleep in the sleeper.'' Other opponents said that the Wilson Logistics request does not meet a level of safety equivalent to the current regulations, and that it is primarily a profit-incentivized request.

VI. FMCSA Decision and Safety Analysis

FMCSA has evaluated Wilson Logistics' application for exemption and the public comments. The Agency is not aware of data or information that would suggest that Wilson Logistics' has lapses in its safety management controls, especially those involving its supervision of CMV drivers. Because the exemption is restricted to Wilson Logistics' CLP holders who have documentation that they have passed the CDL skills test and could operate the CMV at any time upon receipt of the CDL document from the State of domicile, the Agency believes the exemption will achieve a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption (49 CFR 381.305(a)). The exemption will enable these drivers to operate a CMV as a team driver without requiring that the accompanying CDL holder be on duty and in the front seat while the vehicle is moving. Because these drivers have already met all the requirements for a CDL, but have yet to pick up the CDL document from their State of domicile, their safety performance is expected to be the same as any other newly-credentialed CDL holder.

FMCSA has previously granted similar exemptions to C.R. England—initially in 2015, renewed in 2017 [82 FR 48889, October 20, 2017]—and to CRST—initially in 2016, and subsequently renewed in 2018 [83 FR 53149, October 19, 2018].

A copy of Wilson Logistics' application for exemption is available for review in the docket for this notice.

VII. Terms and Conditions of the Exemption

Extent of the Exemption

The exemption from 49 CFR 383.25(a)(1) will allow Wilson Logistics drivers who hold a CLP and have successfully passed a CDL skills test, to drive a CMV without a CDL holder being present in the front seat of the vehicle. The CDL holder must remain in the vehicle, but not in the front seat, at all times while the CLP holder is driving. The exemption is contingent upon Wilson Logistics maintaining USDOT registration, minimum levels of public liability insurance, and not being subject to any ''imminent hazard'' or other out-of-service (OOS) order issued by FMCSA. Each driver covered by the exemption must maintain a valid driver's license and CLP with the required endorsements, have in his or her possession documentation that he or she has passed the CDL skills test, not be subject to any OOS order or suspension of driving privileges, and meet all physical qualifications required by 49 CFR part 391.

Preemption

During the period this exemption is in effect no State may enforce any law or regulation that conflicts with or is inconsistent with the exemption with respect to a person or entity operating under the exemption (49 U.S.C. 31315(d)).

Notification to FMCSA

Wilson Logistics must notify FMCSA within 5 business days of any accidents (as defined by 49 CFR 390.5) involving the operation of any of its CMVs while utilizing this exemption. The notification must include the following information:

(a) Date of the accident;

(b) City or town, and State, in which the accident occurred, or which is closest to the scene of the accident;

(c) Driver's name and license number;

(d) Vehicle number and State license number;

(e) Number of individuals suffering physical injury;

(f) Number of fatalities;

(g) The police-reported cause of the accident;

(h) Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations; and

(k) The driver's total driving time and the total on-duty time of the CMV driver at the time of the accident.

Reports filed under this provision shall be emailed to *MCPSD@dot.gov.*

VIII. Termination

The FMCSA does not believe the team drivers covered by the exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions.

John W. Van Steenburg,

Assistant Administrator.

[FR Doc. 2021–03685 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2020–0159; Notice No. 2021–01]

Hazardous Materials: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on three information collections pertaining to hazardous materials transportation for which PHMSA intends to request renewal from the Office of Management and Budget.

DATES: Interested persons are invited to submit comments on or before April 26, 2021.

ADDRESSES: You may submit comments identified by the Docket Number PHMSA–2020–0159 (Notice No. 2021–01) by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and Docket Number (PHMSA–2020–0159) for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide.

Requests for a copy of an information collection should be directed to Steven Andrews or Shelby Geller, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

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.dot.gov/privacy.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Steven Andrews or Shelby Geller, Standards and Rulemaking Division and addressed to the Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or to *steven.andrews@dot.gov.* Any commentary that PHMSA receives which is not specifically designated as CBI will be placed in the public docket for this notice.

FOR FURTHER INFORMATION CONTACT: Steven Andrews or Shelby Geller, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), title 5, Code of Federal Regulations (CFR) requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests that PHMSA will be submitting to the Office of Management and Budget (OMB) for renewal and extension. These information collections are contained in 49 CFR 171.6 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) Title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a 3-year term of approval for each information collection activity and will publish a notice in the **Federal Register** upon OMB's approval.

PHMSA requests comments on the following information collections:

Title: Cargo Tank Specification Requirements.

OMB Control Number: 2137–0014.

Summary: This information collection consolidates and describes the information collection provisions in parts 107, 178, and 180 of the HMR involving the manufacture, qualification, maintenance, and use of specification cargo tank motor vehicles. It also includes the information collection and recordkeeping requirements for persons who are engaged in the manufacture, assembly, requalification, and maintenance of DOT specification cargo tank motor vehicles. The types of information collected include:

(1) *Registration Statements:* Cargo tank manufacturers and repairers, as well as cargo tank motor vehicle assemblers, are required to be registered with DOT and must furnish information

relative to their qualifications to perform the functions in accordance with the HMR. DOT uses the registration statements to identify these persons to ensure they possess the knowledge and skills necessary to perform the required functions in accordance with applicable regulations.

(2) *Requalification and Maintenance Reports:* These reports are prepared by persons who requalify or maintain cargo tanks. This information is used by cargo tank owners, operators and users, and DOT compliance personnel to verify that the cargo tanks are requalified, maintained, and in proper condition for the transportation of hazardous materials.

(3) *Manufacturers' Data Reports, Certificates, and Related Papers:* These reports are prepared by cargo tank manufacturers and certifiers. They are used by cargo tank owners, operators, users, and DOT compliance personnel to verify that a cargo tank motor vehicle was designed and constructed to meet all requirements of the applicable specification.

The following information collections and their burdens are associated with this OMB Control Number. Please note that these estimates may be rounded for readability:

Information collection	Annual respondents	Total annual responses	Time per response (minutes)	Total annual burden hours
Registration—Cargo Tank Manufacturers	24	24	20	8
Registration—Repair Facilities	33	33	20	11
Registration—Design Certifying Engineers & Registered Inspectors	1,110	1,110	20	370
Registration—Recordkeeping	117	117	15	29
Updating a Cargo Tank Registration	145	145	15	36
Design Certificates for Prototypes	55	55	2.5 hours	138
Design Certificates for Prototypes—Recordkeeping	7	7	15	2
Manufacturer's Data Reports or Certificate and Related Papers	145	6,960	30	3,480
Manufacturer's Data Reports or Certificate and Related Papers—Recordkeeping	700	700	15	175
Completion of Manufacturer's Data Report—New Cargo Tanks	145	4,785	30	2,393
Completion of Manufacturer's Data Report—Remanufactured Cargo Tanks	145	1,015	30	508
Completion of Manufacturer's Data Report—Recordkeeping	145	580	15	145
Cargo Tank Repair/Modification Reports	195	15,015	5	1,251
Testing and Inspection of Cargo Tanks—Visual Inspections	1,654	24,600	30	12,300
Testing and Inspection of Cargo Tanks—External Visual Inspections	1,654	123,000	30	61,500

Affected Public: Manufacturers, assemblers, repairers, requalifiers, certifiers, and owners of cargo tanks.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 6,274.

Total Annual Responses: 178,146.

Total Annual Burden Hours: 82,346.

Frequency of Collection: On occasion.

Title: Testing, Inspection, and Marking Requirements for Cylinders.

OMB Control Number: 2137–0022.

Summary: Requirements in § 173.301 for the qualification, maintenance, and use of cylinders include periodic inspections and retesting to ensure continuing compliance with packaging standards. Information collection requirements address registration of retesters and marking of cylinders by retesters with their identification number and retest date following the completion of required tests. The cylinder owner or designated agent must keep records showing the results of inspections and retests either until expiration of the retest period or until the cylinder is re-inspected or retested, whichever occurs first. These requirements ensure that retesters have the qualifications to perform tests and identify to cylinder fillers and users that cylinders are qualified for continuing use. Information collection requirements in § 173.303 require that fillers of acetylene cylinders keep, for at least 30 days, a daily record of the representative pressure to which cylinders are filled. The following information collections and their burdens are associated with this OMB Control Number. Please noted that these estimates may be rounded for readability:

Information collection	Annual respondents	Total annual responses	Time per response	Total annual burden hours
Cylinder Manufacture Marking	225	101,250	7.17 minutes	12,099
Cylinder Manufacture Inspector's Report	225	225	30 minutes	113
Cylinder Manufacture Inspector's Report—Recordkeeping	30	30	12 minutes	6
Record of Alloy Added to Cylinder	23	23	1 hour	23
Cylinder Requalification Marking	15,000	14,550,000	46 seconds	185,917
Cylinder Requalification Record	15,000	14,550,000	45 seconds	181,875
Cylinder Requalification Record—Recordkeeping	330	330	6 minutes	33
Recent Recalibration Record	2,300	4,830	5 minutes	403
Repair, Rebuilding, or Reheat Treatment Records	47	2,350	12 minutes	470
Repair, Rebuilding, or Reheat Treatment Records—Recordkeeping	6	6	10 minutes	1
Changing Marked Service Pressure	8	8	15 minutes	2

Affected Public: Fillers, owners, users, and retesters of reusable cylinders.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 33,194.

Total Annual Responses: 29,209,052.

Total Annual Burden Hours: 380,942.

Frequency of Collection: On occasion.

Title: Container Certification Statements.

OMB Control Number: 2137–0582.

Summary: Shippers who offer explosives for transportation by vessel in freight containers or transport vehicles are required to certify on

shipping documentation that the freight container or transport vehicle meets minimal structural serviceability requirements that ensure an adequate level of safety. The following information collections and their burdens are associated with this OMB Control Number. Please note that these estimates may be rounded for readability:

Information collection	Annual respondents	Total annual responses	Time per response (minutes)	Total annual burden hours
Freight Container Packing Certification	620	890,000	1	14,833
Class 1 (explosives) Container Structural Serviceability Statement	30	4,500	1	75

Affected Public: Shippers of explosives in freight containers or transport vehicles by vessel.

Annual Reporting and Recordkeeping Burden:

Number of Respondents: 650.

Total Annual Responses: 894,500.

Total Annual Burden Hours: 14,908.

Frequency of Collection: On occasion.

Issued in Washington, DC, on February 17, 2021, under authority delegated in 49 CFR 1.97.

William A. Quade,

Deputy Associate Administrator of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2021–03555 Filed 2–22–21; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0830]

Agency Information Collection Activity: Claim for Reimbursement of Travel Expenses

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 26, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0830'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0830'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 501(a) and 38 U.S.C. 111.

Title: Claim for Reimbursement of Travel Expenses, VA Form 28–0968.

OMB Control Number: 2900–0830.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 28–0968 is used to gather the necessary information to determine eligibility for mileage reimbursement. Without this information, mileage reimbursement would not be possible to grant the benefit under 38 U.S.C. 111 and 38 U.S.C. 501(a).

Affected Public: Individuals and households.

Estimated Annual Burden: 9,417 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 113,000.

By direction of the Secretary:

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–03668 Filed 2–22–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0319]

Agency Information Collection Activity: Fiduciary Agreement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veteran's Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 26, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of

Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0319'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0319'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 44 U.S.C. 3501–21; 38 CFR 13.140.

Title: Fiduciary Agreement (VA Form 21P–4703).

OMB Control Number: 2900–0319.

Type of Review: Reinstatement of a previously approved collection.

Abstract: The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), maintains supervision of the distribution and use of VA benefits paid to fiduciaries on behalf of VA beneficiary who are deemed incompetent, a minor, or under legal disability. The VA Form 21P–4703 is used as a legal contract between VA and a federal fiduciary. It outlines the responsibilities of the fiduciary with respect to the uses of VA funds.

Affected Public: Individuals and households.

Estimated Annual Burden: 3,917 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 47,000.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–03691 Filed 2–22–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Geriatric and Gerontology Advisory Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App.2, that a meeting of the Geriatric and Gerontology Advisory Committee will be held on Thursday, April 27, 2021 and Friday, April 28, 2021, from 12:00 p.m. to 4:00 p.m. (Eastern Daylight Time) on both days. This meeting will be virtual and open to the public.

The purpose of the Committee is to provide advice to the Secretary of VA and the Under Secretary for Health on all matters pertaining to geriatrics and gerontology. The Committee assesses the capability of VA health care facilities and programs to meet the medical, psychological, and social needs of older Veterans, and evaluates VA programs designated as Geriatric Research, Education, and Clinical Centers.

Although no time will be allocated for receiving oral presentations from the public, members of the public may submit written statements for review by the Committee to: Marianne Shaughnessy, CRNP, Ph.D., Designated Federal Officer, Veterans Health Administration by email at *Marianne.Shaughnessy@va.gov.* Comments will be accepted until close of business on April 15, 2021. In the communication, the writers must identify themselves and state the organization, association of person(s) they represent.

Any member of the public wishing to attend virtually or seeking additional information should email *Marianne.Shaughnessy@va.gov* or call 202–407–6798, no later than close of business on April 15, 2021 to provide their name, professional affiliation, email address and phone number. For any members of the public that wish to attend virtually, they may use the WebEx link for April 27, 2021: *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=ma20c0aba509a49bec0ffc0fdabbe71d7,* meeting number (access code): 199 056 7211, meeting password: sgQzubd?893 or April 28, 2021: *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m5901df6b033683a7ade169c399cb083f,* meeting number (access code): 199 832 3835, meeting password: Zuvd32Rjh@7, or to join by phone either day: 1–404–397–1596.

Dated: February 17, 2021.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–03605 Filed 2–22–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0270]

Agency Information Collection Activity: Financial Counseling Statement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 26, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0270'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please

refer to ''OMB Control No. 2900–0270'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Financial Counseling Statement, VA Form 26–8844.

OMB Control Number: 2900–0270.

Type of Review: Extension of a currently approved collection.

Abstract: This form was developed under 38 U.S.C. 3732. VA Form 26–8844 provides for recording comprehensive financial information concerning the borrower's net income, total expenditures, net worth, suggested areas for which expenses can be reduced or income increased, the arrangement of a family budget and recommendations for the terms of any repayment agreement on the defaulted loan.

Affected Public: Individuals and households.

Estimated Annual Burden: 3,750 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 5,000 per year.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–03647 Filed 2–22–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0668]

Agency Information Collection Activity: Supplemental Income Questionnaire (for Philippine Claims Only)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veteran's Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 26, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0668'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0668'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 5101; 38 U.S.C. 107; 38 U.S.C. 1521, 1541, and 1542; 38 CFR 3.262 and 3.272.

Title: Supplemental Income Questionnaire (for Philippine Claims Only (VA Form 21P–0784).

OMB Control Number: 2900–0668.

Type of Review: Extension of a currently approved collection.

Abstract: VBA administers Pension Benefits, which is a needs-based benefit program for wartime Veterans, who are aged 65 or older or have a permanent and total *non-service-connected* disability and limited income and net worth. Eligibility is determined based on the income of and asset amounts for the Veteran and their spouse. Claimants residing in the Philippines complete the 21P–0784 *Supplemental Income Questionnaire (for Philippine Claims Only)* to report their countable family income and net worth. VBA uses the information to determine the claimant's entitlement to pension benefits.

Affected Public: Individuals and households.

Estimated Annual Burden: 30 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 120.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–03690 Filed 2–22–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that a virtual meeting of the Advisory Committee on Disability Compensation (the Committee) will begin and end as follows:

Dates:	Times:
Tuesday, April 20, 2020	9:00 a.m.–12:00 p.m. Eastern Standard Time (EST).
Wednesday, April 21, 2020	9:00 a.m.–12:00 p.m. EST.

The virtual meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities.

The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation.

The agenda will include, but is not limited to, briefings on the VA Schedule for Rating Disabilities and on relevant earnings and losses studies.

Time will not be allocated at this virtual meeting for receiving oral presentations from the public. However, interested individuals may submit a one (1) to two (2) page summary of their written statements for the Committee's review. Public statements may be received no later than April 13, 2021; for inclusion in the official meeting record. Please send these to Sian Roussel of the Veterans Benefits Administration, Compensation Service at *Sian.Roussel@va.gov.*

Members of the public who wish to obtain a copy of the agenda should contact Sian Roussel at *Sian.Roussel@va.gov* and provide his/her name, professional affiliation, email address and phone number.

The call-in number for those who would like to attend the meeting is 1–800–767–1750; access code: 75937#.

Dated: February 18, 2021.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–03616 Filed 2–22–21; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

National Credit Union Administration

12 CFR Parts 701, 702, 709, et al.
Subordinated Debt; Final Rule

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 702, 709 and 741

RIN 3133–AF08

Subordinated Debt

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending various parts of the NCUA's regulations to permit Low-income Designated Credit Unions, Complex Credit Unions, and New Credit Unions to issue Subordinated Debt for purposes of Regulatory Capital treatment. The Board issued the proposed Subordinated Debt rule at its January 2020 meeting. The Board is finalizing the rule largely as proposed, except for a few changes to various sections based on comments received. Such changes include amending the definition of Accredited Investor, providing a longer timeframe in which a credit union may issue Subordinated Debt after approval, reducing the required number of years of Pro Forma Financial Statements an Issuing Credit Union must provide with its application, clarifying the prohibition on Subordinated Debt issuances outside of the United States, and clarifying that the Board will publish a fee schedule only if it makes a determination to charge a fee.

DATES: This rule is effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT: *Policy:* Tom Fay, Director of Capital Markets, Office of Examination and Insurance or Rick Mayfield, Senior Capital Markets Specialist, Office of Examination and Insurance. *Legal:* Justin M. Anderson, Senior Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314–3428. Tom Fay can be reached at (703) 518-1179, Rick Mayfield can be reached at (703) 518–6501, and Justin Anderson can be reached at (703) 518-6540.

SUPPLEMENTARY INFORMATION:

I. History

At its January 2020 meeting, the Board issued a proposed Subordinated Debt rule (the proposed rule) to permit Low-income Designated Credit Unions [1] (LICUs), Complex Credit Unions, and New Credit Unions to issue Subordinated Debt for purposes of Regulatory Capital treatment.[2] This rule finalizes the proposed rule largely as proposed except for several amendments, which are discussed later in this document. The following is a brief history of secondary capital, Risk Based Capital (RBC) for credit unions, and the advent of alternative forms of capital, which ultimately resulted in the development of the proposed rule and this final rule.

A. Secondary Capital for LICUs

In 1996, the Board finalized § 701.34 of the NCUA's regulations (the Secondary Capital Rule) to permit LICUs to raise secondary capital from foundations and other philanthropic-minded non-natural person members and non-members.[3] The Board issued the Secondary Capital Rule to provide an additional way for a LICU to attain Regulatory Capital to serve two specific purposes: (1) Support greater lending and financial services in the communities served by the LICU; and (2) absorb losses to prevent the LICU from failing.

In 1998, as part of the Credit Union Membership Access Act (CUMAA),[4] Congress amended the Federal Credit Union Act (the FCU Act) to institute a system of prompt corrective action for federally insured credit unions based on a credit union's level of Net Worth. Relevant to this final rule, CUMAA specifically defined ''net worth'' to include, among other things, secondary capital issued by a LICU, provided the secondary capital is uninsured and subordinate to all other claims against the LICU, including the claims of creditors, shareholders, and the National Credit Union Share Insurance Fund (NCUSIF).[5]

In 2006, the Board further amended § 701.34 to require regulatory approval of a LICU's secondary capital plan before a LICU could issue secondary capital.[6] In the preamble to the final 2006 rule, the Board noted that LICUs had sometimes used secondary capital to achieve goals different from those for which it was originally intended. It also highlighted a pattern of ''lenient practices'' by LICUs that issued secondary capital. These practices contributed to excessive net operating costs, high losses from loan defaults, and a shortfall in revenue.[7]

The Secondary Capital Rule [8] provides that secondary capital accounts must:

- Be established as an uninsured secondary capital account or another form of non-share account;
- Have a minimum maturity of five years;
- Not be insured by the NCUSIF or any governmental or private entity;
- Be subordinate to all other claims against the LICU, including those of shareholders, creditors, and the NCUSIF;
- Be available to cover losses that exceed the LICU's net available reserves and, to the extent funds are so used, a LICU may not restore or replenish the account under any circumstances.[9] Further, losses must be distributed *pro rata* among all secondary capital accounts held by the LICU at the time the loss is realized;
- Not be pledged or provided by the investor as security on a loan or other obligation with the LICU or any other party;
- Be evidenced by a contract agreement between the investor and the LICU that reflects the terms and conditions mandated by the Secondary Capital Rule and any other terms and conditions not inconsistent with that rule;
- Be accompanied by a disclosure and acknowledgment form as set forth in the appendix to the Secondary Capital Rule;
- Not be repaid, including any interest or dividends earned thereon, if the Board has prohibited repayment thereof under § 702.204(b)(11), § 702.304(b), or § 702.305(b) of the NCUA's regulations because the LICU is classified as ''Critically Undercapitalized''; or, if a LICU is a New Credit Union (as defined under § 702.2 of the NCUA's regulations), as ''Moderately Capitalized,'' ''Marginally Capitalized,'' ''Minimally Capitalized,'' or ''Uncapitalized;''
- Be recorded on the LICU's balance sheet; [10]

[1] Terms that are capitalized throughout this document are defined within the document or in the finalized regulatory text.

[2] 85 FR 13892 (March 10, 2020).

[3] *See* 61 FR 50696 (Sept. 27, 1996) (final rule); see also 61 FR 3788 (Feb. 2, 1996) (interim final rule); 12 CFR 701.34.

[4] *Credit Union Membership Access Act of 1998,* Public Law 105–219, sec. 301, 112 Stat. 913, 929 (codified at 12 U.S.C. 1790d(o)(2)(C) (1998)).

[5] *Id.*

[6] 71 FR 4234 (Jan. 26, 2006).

[7] *Id.* at 4236. Before 2006, a LICU was required to submit a copy of its secondary capital plan to the NCUA, but it was not required to obtain preapproval.

[8] 12 CFR 701.34. The last substantive amendment to the Secondary Capital Rule was in 2010 with the addition of language regarding secondary capital received under the Community Development Capital Initiative of 2010. 75 FR 57843 (Sept. 23, 2010).

[9] This generally means that, when net operating losses exceed Retained Earnings, a LICU needs to first use the secondary capital funds to cover the excess amount.

[10] While the Secondary Capital Rule requires a LICU to record secondary capital accounts on its

• Be recognized as Net Worth in accordance with the schedule for recognizing Net Worth value in paragraph (c)(2) of the Secondary Capital Rule;

• Be closed and paid out to the account investor in the event of merger or other voluntary dissolution of a LICU, to the extent the secondary capital is not needed to cover losses at the time of the merger or dissolution (does not apply in the case where a LICU merges into another LICU); and

• Only be repaid at maturity [11] except that, with the prior approval of the NCUA and provided the terms of the account allow for early repayment, a LICU may repay any portion of secondary capital that is not recognized as Net Worth.[12]

The Secondary Capital Rule also includes requirements related to secondary capital plan submissions and approvals, redemption of secondary capital, disclosures, and Regulatory Capital treatment.

As noted previously, since the passage of CUMAA, the NCUA permits a LICU that issues secondary capital to include the aggregate outstanding principal amount of that secondary capital, in accordance with the schedule for Net Worth,[13] as part of its Net Worth. Further, pursuant to the NCUA's currently effective risk-based net worth requirements, the NCUA also permits a LICU to include such secondary capital in its risk-based net worth calculation. By contrast, a non-LICU does not have the statutory authority to issue secondary capital and, to the extent a non-LICU issues an instrument that is analogous to secondary capital, to include any such instruments in its Net Worth (or its risk-based net worth) calculation.

B. Subordinated Debt for LICUs and Certain Non-LICUs

1. RBC

In October 2015, the Board finalized a rule to replace the current risk-based net worth requirement with an RBC requirement.[14] Under the revised standard, the NCUA permits a LICU to include secondary capital in its RBC calculations in the same manner as it currently includes secondary capital in its risk-based net worth calculation. Under the proposed rule, the Board proposed to grant certain non-LICUs the authority to issue instruments in the form of Subordinated Debt and allow such credit unions to count those instruments in their respective RBC calculations. This new authority, however, would not permit non-LICUs to include Subordinated Debt in their Net Worth calculations.

In the proposed RBC rule issued in 2015,[15] the Board requested stakeholder input on supplemental capital.[16] A majority of commenters that addressed supplemental capital stated it was imperative that the Board consider allowing credit unions to issue additional forms of capital. The commenters suggested this authority was particularly important, as credit unions are at a disadvantage in the financial marketplace because most lack access to additional capital outside of Retained Earnings.

While none of the commenters offered specific suggestions on how to implement supplemental capital, a few suggested that the Board promulgate broad, non-prescriptive rules to allow credit unions maximum flexibility in issuing supplemental capital.

2. 2017 Advance Notice of Proposed Rulemaking

On February 8, 2017, the Board published an advance notice of proposed rulemaking (ANPR) to solicit comments on alternative forms of capital credit unions could use to meet capital standards required by statute and regulation.[17] In response, the Board received 756 comments.

Of the 756 comments received, 688 appeared to be derived from one form letter [18] that opposed the NCUA proceeding with a supplemental capital proposal. In addition to the form letter, the Board received 68 unique comments in response to the ANPR, most of which supported proposing a rule to allow non-LICUs to issue an alternative form of capital. A majority of the commenters in favor of the Board issuing a proposed rule cited compliance with the NCUA's RBC rule [19] as the main reason for their support. Other justifications for support proposed by commenters included credit union growth, protection from economic downturns, and providing services demanded by members.

In general, the comments lacked specificity, and very few commenters addressed all or even most of the questions posed by the Board. Nevertheless, the comments covered a wide range of topics and offered varying levels of support for provisions suggested in the ANPR. As noted in the proposed rule, the Board considered all comments received in response to the ANPR during the Subordinated Debt rulemaking process.

II. Proposed Rule

At its January 2020 meeting, the Board issued the proposed rule to permit LICUs, Complex Credit Unions, and New Credit Unions to issue Subordinated Debt for purposes of Regulatory Capital treatment.[20] Specifically, the proposed rule included a new subpart in the NCUA's final RBC rule [21] to address the requirements for, and Regulatory Capital treatment of, Subordinated Debt. The proposed subpart also contained requirements related to credit union eligibility to issue Subordinated Debt, applying for NCUA authority to issue Subordinated Debt, disclosures, securities laws, the terms of a Subordinated Debt Note, and prepayments.

The proposed rule also provided for the grandfathering of any secondary capital issued before the effective date of a final Subordinated Debt rule (Grandfathered Secondary Capital) and preserved the Regulatory Capital treatment of Grandfathered Secondary Capital for up to 20 years after the effective date of a final Subordinated

balance sheet as ''equity accounts,'' generally accepted accounting principles in the United States generally require financial institutions to record secondary capital accounts as ''debt.'' *See* FASB (Financial Accounting Standards Board), ASC 942-405-25-3 and 25-4. The instructions to the 5300 Call Report require all federally insured credit unions to report any secondary capital in the Liability section of the Statement of Financial Condition.

[11] A LICU may not issue a secondary capital account that amortizes over its stated term.

[12] *See* 12 CFR 701.34(d).

[13] *Id.* § 701.34(c)(2).

[14] 80 FR 66626 (Oct. 29, 2015). The Board has delayed the effective date for the final RBC rule two times. First, in 2018, the effective date was delayed by one year, from January 1, 2019, to January 1, 2020. 83 FR 55467 (Nov. 6, 2018). Second, based on Board action at the December 2019 Board meeting, the effective date was delayed two additional years, from January 1, 2020 to January 1, 2022.

[15] 80 FR 4340 (Jan. 27, 2015).

[16] *Id.* at 4384. The Board notes that when the agency began to consider authorizing non-LICU credit unions to issue instruments analogous to secondary capital instruments issued by LICUs, it used the term ''supplemental capital'' to refer to those instruments. In 2017, when the Board issued an advance notice of proposed rulemaking on this topic, the NCUA used the umbrella term ''alternative capital'' to refer to both supplemental capital and secondary capital. In light of FCUs' authority only to issue *debt* instruments, however, the Board believes it is more accurate to use the umbrella term ''Subordinated Debt'' to refer to both secondary capital and what was once referred to as supplemental capital. It is important to note that, unless the context otherwise requires, the term ''Subordinated Debt'' refers to both types of debt instruments.

[17] 82 FR 9691 (Feb. 8, 2017).

[18] While there were slight modifications to some letters, the substance of each was the same.

[19] 80 FR 4340 (Jan. 27, 2015).

[20] 85 FR 13892 (Mar. 10, 2020).

[21] 80 FR 4340 (Jan. 27, 2015).

Debt rule.[22] Under the proposed rule, Grandfathered Secondary Capital would generally remain subject to the requirements in the Secondary Capital Rule. For ease of reference, the requirements in the Secondary Capital Rule would be moved from their current location to a section in the new proposed subpart.

Conversely, any issuances of secondary capital not completed by the effective date of this subpart would be subject to the requirements applicable to Subordinated Debt discussed elsewhere in this subpart. This change would not impact a LICU's ability to include such instruments in its Net Worth.

In addition to these changes, the proposed rule included additions and amendments to other parts and sections of the NCUA's regulations. Specifically, the proposed rule included:

- A new section that addresses limits on loans to other credit unions;
- An expansion of § 701.38 (''the borrowing rule'') to clarify that Federal credit unions (FCUs) can borrow from any source;
- Revisions to the RBC rule [23] and the payout priorities in the NCUA's involuntary liquidation rule (12 CFR part 709) to account for Subordinated Debt and Grandfathered Secondary Capital; and
- Cohering changes to part 741 to account for other changes that apply to federally insured, state-chartered credit unions (FISCUs).

The proposed rule provided for a 120-day comment period, which ended in July 2020.

III. Final Rule and Public Comments on Proposed Rule

The NCUA received 171 comment letters in response to the proposed rule, which included letters from credit union trade associations, credit unions, state and regional credit union leagues, bank trade organizations, corporate credit unions, banks, law firms, securities brokers, and individuals. Of the 171 comment letters, 125 appear to have been generated from one form letter opposing the rule.[24]

Nearly all the remaining commenters supported the proposed rule, but did offer at least one suggested change. Supporting commenters generally reiterated the need for Subordinated Debt and the NCUA's legal authority to authorize it. These commenters, however, varied widely on changes requested in a final Subordinated Debt Rule.

The Board notes that, in October 2020, the Board finalized a rule related to corporate credit unions [25] in which the Board indicated it would finalize a change related to a corporate credit union's purchase of Subordinated Debt in a final Subordinated Debt rule. While it is the Board's intent to finalize the change to the corporate credit union rule, it thought it best to bring that item separately, but in the near future.

A. Comments Opposing Proposed Rule

As noted previously, all of the form letters and a few unique letters opposed the proposed rule in its entirety. In summary, these comments contained three general arguments in opposition to the proposed rule.

First, these commenters stated that allowing credit unions to issue Subordinated Debt for Regulatory Capital purposes ''undermines the foundation of credit unions' tax exempt status.'' In support of this assertion, commenters stated that ''credit unions are afforded tax-exempt status in part because they lack access to capital markets to raise equity. If this rule is adopted, that constraint will be obliterated, giving credit unions fuel to grow well beyond their mission of serving people of small means.'' These commenters also stated that the proposed rule was concerning in ''context of NCUA's methodical work to knock down the other pillars of the credit union tax exemption compact, including the field of membership expansion, the low-income designation expansion, and the proposal to speed credit unions' purchases of banks.''

Second, these commenters generally stated that the proposed rule ''usurps Congressional authority by approving the use of investor-raised funds to satisfy regulatory capital requirements, an area Congress clearly restricted to retained earnings in the Federal Credit Union Act.'' The commenters did not offer further support for this statement.

Finally, these commenters stated that the proposed rule would pose significant risk to the NCUSIF. These commenters stated that the NCUA has acknowledged that secondary capital has contributed to rapid growth and higher failure rates in credit unions that issue secondary capital. The commenters went on to state that expanding the authority to issue Subordinated Debt to the largest credit unions will pose significant risk to the NCUSIF and constitutes irresponsible behavior by the NCUA.

The Board disagrees with these commenters on all three assertions. First, as articulated in the proposed rule and reproduced later in this document, FCUs have the legal authority to issue Subordinated Debt, and the Board has the authority to include such instruments in the RBC calculation.

With respect to the tax exemption argument, the Board reiterates its statements in the proposed rule that, under the FCU Act, FCUs are permitted to borrow from any source.[26] The Board was meticulous in crafting this final rule to ensure Subordinated Debt instruments remain squarely in the form of borrowings, as permitted by the FCU Act. The Board, therefore, has no reason to believe that the continuation of an already permissible activity would in any way jeopardize the tax-exempt status of FCUs. Further, the Board will require a FISCU to issue an instrument that meets the same requirements as an instrument issued by an FCU if the FISCU wants such instrument to be included in its RBC calculation. This is described more fully later in this document. The Board was made this intentional decision in part to help preserve FISCUs' tax-exempt status which, as discussed below, differs from that of FCUs.

Finally, the Board has included many safeguards in the final rule to ensure that Subordinated Debt acts as a buffer to reduce risk to the NCUSIF rather than increase risk, as asserted by the aforementioned commenters. The Board is confident that the framework of the final rule will help protect the NCUSIF.

B. Comments Supporting, But Suggesting Changes to, the Proposed Rule

The comments described in this section support the proposed rule, but offered suggested changes and amendments. In each section the Board briefly summarizes and responds to comments, with an indication of whether the Board has changed the final rule or has finalized a section as proposed. The Board notes that the following content is organized by the number of commenters that addressed a particular topic and the impact of a particular section on the rest of the rule. The Board believes this organization will help readers ascertain which topics were the most commented-on and complex. While the Board chose this organization for ease of use, the Board notes that it evaluates all comments and

[22] Grandfathered Secondary Capital will be considered as Regulatory Capital in accordance with the approved application, terms of the note, and the applicable schedule for recognizing secondary capital as Net Worth, provided that no such term may exceed 20 years.

[23] 80 FR 4340 (Jan. 27, 2015).

[24] While there were slight modifications to some letters, the substance of each letter was the same.

[25] 85 FR 71817 (Nov. 12, 2020).

[26] 12 U.S.C. 1757(9).

topics equally, regardless of number or the depth of the comments.

1. Subordinated Debt Is a Security

The proposed rule included a comprehensive description of Subordinated Debt as a security and described general securities law that may apply to Subordinated Debt issued by a credit union. This section of the proposed rule stated that the NCUA continues to believe any Subordinated Debt Note would be deemed a security for purposes of Federal and state securities law. This section went on to provide the definition of a ''security'' under the Securities Act of 1933 and interpretations of such term by various courts, including the U.S. Supreme Court.

Twelve commenters disagreed with the NCUA's assertion that all Subordinated Debt issued under the proposed rule would be a security for purposes of Federal and state securities laws. The majority of these commenters stated that such a classification would result in an overly complex and expensive set of requirements, including the preparation of an Offering Document and the retention of securities counsel, that would make many small issuances of Subordinated Debt cost-prohibitive for LICUs.

One commenter stated that ''currently, the issuance of secondary capital is largely accomplished through what is best described as bilaterally negotiated lending transactions. The NCUA has not suggested that this practice would be discontinued in the case of subordinated debt, and it is reasonable to believe that many market offerings would continue to be conducted in this way.'' This commenter went on to state that, because of the use of these bilateral-type agreements, the NCUA should refrain from implementing a blanket approach to securities law compliance.

Other commenters believed a blanket classification of Subordinated Debt as a security would negatively impact LICUs and small issuances. Further, many of these commenters urged the NCUA to consider a more flexible approach that follows the exemptions provided for in the Security and Exchange Commission's (SEC's) rules and the Office of the Comptroller of the Currency's (OCC's) subordinated debt regulation. Specifically, one commenter stated that the proposed rule would require an Issuing Credit Union to prepare and deliver an Offering Document to potential investors ''even though there is no SEC-mandated disclosure requirements for offerings of securities pursuant to the section 3(a)(5) exemption, and there generally are no SEC-mandated disclosure requirements for offerings of securities pursuant to the Rule 506 [17 CFR 230.506] private placement exemption as long as all purchasers in the offering are 'accredited investors.' '' This commenter went on to state that there ''already exists a U.S. securities law framework which applies to such exempt issuances, and that framework stipulates that registration and disclosure requirements are not necessary in these cases. It is unnecessary, improper, and unduly burdensome for NCUA to impose such requirements on exempt credit union issuers when U.S. securities law does not impose these requirements.''

In response to the aforementioned comments, the Board first reiterates that section 2(1) of the Securities Act broadly defines the term ''security'' to include, among other things, any:

- Stock;
- Note;
- Bond;
- Debenture;
- Evidence of indebtedness;
- Investment contract; or
- Interest or instrument commonly known as a security.[27]

Further, the U.S. Supreme Court has repeatedly emphasized that the definition of ''security'' is quite broad. The U.S. Supreme Court, in a variety of cases analyzing the boundaries of the definition, has stressed that the substantive characteristics of the instrument in question and the circumstances surrounding its issuance, rather than the mere name or title of the instrument, are of primary significance in determining whether the instrument, contract, or arrangement in question will be deemed a ''security.'' While lower Federal courts and some state courts have sometimes taken a narrower view than the Supreme Court, common factors the courts generally consider in their analysis (particularly in the context of a debt instrument, contract or arrangement) include:

- The terms of the offer;
- The characteristics of the economic inducement being offered to the potential counterparty, and whether the characteristics are consistent with a loan or typical extension of credit, or such that the counterparty would anticipate a potential return on investment in addition to repayment of the obligation and any stated interest;
- The plan of distribution;
- How an instrument is marketed and to whom it is marketed, and whether the potential counterparties are traditional lenders/providers of credit or investors who would anticipate a potential return on investment in addition to repayment of the obligation and any stated interest; and
- The ''family resemblance'' of the instrument to other instruments or arrangements that have been found to fall within the definition of a ''security,'' rather than having characteristics more akin to a loan or typical extension of credit.

As the preceding information demonstrates, the definition of a security is quite broad and encompassing. As such, the Board again acknowledges that Subordinated Debt Notes issued under the Subordinated Debt rule, as finalized herein, fit within the definition of a security. Inclusion in such definition may subject issuances to various Federal and state laws and regulations.

The Board's statement in both the proposed rule and this final rule that Subordinated Debt Notes would be securities is an acknowledgment of such fact and has no bearing on the treatment of such notes by the SEC or state regulators. Rather, after consultation with outside securities law counsel, the Board recognizes that Subordinated Debt Notes issued under this final rule are likely (to some degree) to be subject to the multitude of Federal and state securities laws—particularly those related to disclosures and anti-fraud. The Board believes it is prudent and responsible to adopt a framework, as discussed in the proposed rule, to aid Issuing Credit Unions in providing Offering Documents to investors. As a prudential regulator, it is incumbent upon the NCUA to include in a rulemaking of this complexity provisions to help ensure credit unions comply with regulatory or statutory requirements, and to help credit unions avoid legal challenges from investors.

The Board reiterates that for all Issuing Credit Unions, the issuance of Subordinated Debt may be a new activity. While LICUs have been issuing secondary capital for several decades, this will be the first time the NCUA has permitted LICUs to issue instruments to qualifying natural persons. Because this is a new and complex activity for all Issuing Credit Unions, in consultation with outside counsel, the Board views the Offering Document process to as helping Issuing Credit Unions navigate complex disclosures and anti-fraud laws. However, the Board notes that the Offering Document is independent of and, in some cases, additive to any requirements imposed by applicable securities laws. The Board reiterates its expectation that credit unions

[27] 15 U.S.C. 77b.

contemplating an issuance of Subordinated Debt Notes retain professional advisors experienced in securities law disclosure matters to help them prepare related Offering Documents. In short, the Board continues to believe that Subordinated Debt Notes issued under this final rule would be securities. Therefore, the Board is taking a prudential stance by finalizing, as proposed, the various provisions related to securities law that appeared in the proposed rule. The Board believes that, in the infancy of Subordinated Debt issuances, such provisions are transparent and will help Issuing Credit Unions navigate and properly issue Subordinated Debt Notes (in consultation with counsel). The Board further notes that the disclosures required by this final rule are akin to those most investors are accustomed to seeing in the marketplace, which may make issuances of Subordinated Debt Notes less costly for some Issuing Credit Unions.

a. Exemptions for Certain Subordinated Debt Issuances

In addition to the aforementioned comments, several commenters stated that the OCC's requirements for national banks offering subordinated debt are less restrictive than what the Board proposed for credit unions. Commenters noted that the OCC requires banks that issue subordinated debt to comply with § 16.5 of the Federal Deposit Insurance Corporation's (FDIC's) Securities Offering Disclosure Rule, which contains several exemptions to the prospectus delivery requirement, including exemptions for nonpublic offerings and small issuances made in conformance with applicable SEC rules.[28] To align with regulations issued by the OCC and FDIC, these commenters stated that the NCUA should consider a more flexible approach.

The Board is aware that the FDIC's Securities Offering Disclosure Rule[29] contains exemptions that were not included in the proposed rule and are not included in this final rule. First, related to the preceding section of this document, the Board notes that while the OCC and FDIC provide exemptions for certain issuances, the OCC and FDIC still deem such issuances to be securities. Rather, the OCC and FDIC have provided exemptions from registration and delivery of an Offering Document for issuances of securities that satisfy certain requirements.

Second, the Board notes that the OCC has supervised—and banks have engaged in—subordinated debt transactions for many years. As noted previously, this final rule will be, to some degree, a new endeavor for many Issuing Credit Unions. The Board believes it is both prudent and necessary to maintain the proposed guardrails to help Issuing Credit Unions comply with applicable securities laws, particularly those related to anti-fraud. As the NCUA and credit unions move forward with this final rule, the Board will continue to evaluate the rule and may undertake future rulemakings to provide exemptions where they are both warranted and prudent for Issuing Credit Unions.

2. Offering Document

In addition to comments related to the applicability of securities laws and exemptions from submitting an Offering Document, as discussed previously, several commenters offered specific comments on the requirement that an Issuing Credit Union create an Offering Document for each issuance of Subordinated Debt. Generally, these commenters opposed the Offering Document process, or at least requested an exemption or streamlined process for certain issuances.

One commenter stated that the NCUA should include exemptions for certain issuances of Subordinated Debt, similar to the OCC and FDIC. This commenter contended that such exemptions would lower regulatory burden on smaller institutions and bring the NCUA's regulation more in line with the OCC's, FDIC's, and SEC's disclosure requirements. This commenter went on to state that almost every current issuance of secondary capital would be exempt from the Offering Document process under the OCC's Subordinated Debt regulation.

Another commenter stated that ''the NCUA's documentation requirement goes beyond that of the OCC, which permits a bank seeking to issue securities to tailor its approach to the relevant securities registration exemption—and associated market practice—that meets its needs.'' This commenter went on to state that ''the NCUA's requirement could result in credit unions having higher burdens—and less transaction flexibility—than their community bank counterparts.'' Finally, this commenter argued that the NCUA's requirements would be similar to those imposed by the SEC on public offerings, which, in the commenter's view, would hinder the credit union industry, which would largely be engaging in small, private issuances.

Another commenter suggested that instead of the NCUA's proposed approach to Offering Documents, the NCUA should require a potential credit union issuer—as part of its initial application to issue Subordinated Debt—to explain how its approach to due diligence, disclosure, and securities law considerations is reasonable given the specifics of an issuance. In support, this commenter stated that this approach would provide flexibility while accounting for the varying types of issuances and varying degrees of investor sophistication.

Another commenter suggested the Board detach the Offering Document from the application process, and instead make approval contingent on the inclusion of an offering circular to comply with 17 CFR 240.10b–5 and other disclosures the NCUA deems appropriate. This commenter stated that this would allow a credit union to defer the legal costs associated with preparing an Offering Document until the credit union was ready to execute its Subordinated Debt strategy.

Finally, one commenter requested that the NCUA explicitly require issuers to disclose all pending legal or other items that could have a negative impact on the credit union's capital, income, or operating performance. This commenter stated that such information was necessary for an investor to make a well-informed decision.

For the reasons articulated in the proposed rule and those discussed previously, the Board is finalizing the sections relating to the Offering Document as proposed. In addition to the previous discussion related to Subordinated Debt as a security, the Board continues to believe that a robust Offering Document is prudent for credit unions that issue Subordinated Debt.

As noted in the proposed rule, the Offering Document is designed to provide investors with disclosures that provide the information they need to make an informed decision on purchasing Subordinated Debt. Further, the Board modeled the Offering Document from disclosures common in the marketplace for this type of instrument. Because Subordinated Debt is a security and thus subject to the broad antifraud provisions of the Securities Exchange Act, as codified in the SEC's regulations,[30] the Board intends the Offering Document to be an aid for credit unions and an extra level of protection for investors.

In response to commenters seeking an exemption for certain types of Subordinated Debt transactions, the Board may consider such actions in future rulemakings. However, as noted

[28] 12 CFR 16.5

[29] *Id.*

[30] 17 CFR 240.10b–5.

previously, because this is a new endeavor for many Complex and New Credit unions and this is the first time LICUs will be permitted to issue Subordinated Debt to natural persons, the Board believes it is important to take a measured approach to the issuance of these instruments. The Board believes a ''walk before you run'' approach in this area is both prudent and necessary.

Finally, the Board believes that third parties may produce Offering Document templates to help credit unions issue Subordinated Debt more efficiently, while still complying with this rule and applicable securities laws. The creation of such templates may help defray some of the cost for Issuing Credit Unions. The Board encourages such collaboration in the industry, provided it is compliant with the final rule and all applicable securities laws. The Board notes, however, that the use of any template Offering Document must be customized to a credit union's specific issuance and accurately disclose the specific aspects that are unique to the Issuing Credit Union.

For the reasons discussed above, the Board is finalizing the Offering Document, and sections related thereto, as proposed.

3. Preapproval To Issue Subordinated Debt

The proposed rule required that eligible credit unions submit an application and receive written preapproval from the NCUA before issuing Subordinated Debt. The proposed application process consisted of an eligible credit union providing the Appropriate Supervision Office information on 15 topics as part of the initial application. In addition, the Board proposed to amend the NCUA's review time of such application from 45 days with automatic approval (as in the Secondary Capital Rule) to 60 days, with no automatic approval. The Board also proposed to expire any approval granted under the rule one-year from the date of such approval.

Most of the commenters that supported the proposal addressed at least some aspect of the proposed application process. The commenters generally focused on:

- Reducing the complexity of the application process;
- The timing for NCUA approval of an application;
- The requirement to issue Subordinated Debt within one-year from the approval of an application;
- Subordinated Debt Note restrictions; and
- The requirement to provide at least five years of Pro Forma Financial Statements.

a. Application Requirements

Approximately 13 commenters either stated that the preapproval requirements to issue Subordinated Debt were too burdensome or requested that the NCUA streamline the process. While some commenters appreciated the clarity in the proposed preapproval requirements, this subset of commenters felt that the preapproval requirements were too cumbersome and would discourage many credit unions from issuing Subordinated Debt.

Some commenters stated that the preapproval process should not be a one-size-fits-all approach, but should reflect the complexity of the proposed issuance. Several of these commenters stated that the NCUA should retain its current ''Secondary Capital Plan'' requirements. In addition, two commenters stated that if the NCUA retains the proposed preapproval requirements, the final rule should provide for a streamlined process for subsequent preapproval requests from previously approved credit unions.

As stated in the proposed rule, the Board remains dedicated to a requirement for an eligible credit union to obtain written preapproval before issuing Subordinated Debt, as it views this step as an important prudential safeguard. The Board believes a preapproval process is part of a credit union's sound management plan, and will help the NCUA ensure that a planned issuance of Subordinated Debt is structured in such a manner as to appropriately protect the Issuing Credit Union and the NCUSIF.

While the Board recognizes the many potential benefits that an issuance of Subordinated Debt Notes may confer on an Issuing Credit Union, it also appreciates the complexities and risks of such issuance. The decision to offer and sell Subordinated Debt Notes should be made only after careful consideration, preparation, and diligence by the Issuing Credit Union, including seeking professional advice as warranted. For these reasons, the Board is retaining this important prudential safeguard and will adopt the preapproval requirements as proposed.

b. NCUA Review Time of Application

As noted previously, the proposed rule increased the review time of an initial application to 60 days from the Secondary Capital Rule's period of 45 days.[31] In addition, the proposed rule removed the automatic approval that exists in the Secondary Capital Rule if the NCUA fails to respond before the expiration of the 45-day period. Approximately 13 commenters opposed these proposed changes.

Generally, these commenters stated that a longer approval process with no automatic approval would impose unnecessary burdens on credit unions seeking to issue Subordinated Debt. These commenters urged the NCUA to retain the approval timing and structure in the Secondary Capital Rule. One commenter stated that the NCUA should concurrently review a credit union's application and Offering Document, asserting that consecutive rather than concurrent reviews could place a credit union at a competitive disadvantage and frustrate a credit union's efforts to issue Subordinated Debt. Further, this commenter stated that an overly long review process could result in ''stale'' data, which may not be useful to the NCUA or investors.

As stated in the proposed rule, the Board believes the expanded requirements for initial applications are broader than the Secondary Capital Rule requirements and that the enhanced description of diligence expectations will require a more thorough review by the Appropriate Supervision Office. While the Board anticipates that the clear, transparent structure of the application requirements will lead to increased efficiency from both credit unions and the agency, the Board believes the extra time is warranted to ensure an application is sufficient for an Appropriate Supervision Office to make a well-informed decision. Further, the Board notes that the complexity of a Subordinated Debt issuance will drive both the veracity of a credit union's application and the NCUA's review time. As such, the Board anticipates that the increased time for review will have little impact on most smaller, simple issuances. Therefore, the Board is retaining, as proposed, the 60-day timeframe for NCUA review of applications.

c. Expiration of Authority

The proposed rule included a provision that would require the expiration of an Issuing Credit Union's authority to issue Subordinated Debt Notes one year from the later of:

- The date the Issuing Credit Union received NCUA approval of its initial application (if the proposed offering is to be made solely to Entity Accredited Investors); or
- The ''approved for use'' date of the applicable Offering Document (if the

[31] 12 CFR 701.34(b)(2)).

proposed offering will include any Natural Person Accredited Investors).

The Board included a question in this section of the proposed rule preamble asking if a one-year expiration would negatively impact Issuing Credit Unions. Approximately 16 commenters responded to this question and disagreed with the proposed requirement that a credit union complete a Subordinated Debt issuance within one year from the date of receiving NCUA approval. Most of these commenters stated that one year is an arbitrary deadline that may force a credit union to make a rushed decision or not be able to adequately account for the complexities necessary to execute a beneficial offering. Most of the commenters sought an extension of the one-year period, rather than an outright abolishment of it.

In addition, two commenters stated that the NCUA could use the quarterly regulatory reporting to monitor credit unions with Subordinated Debt authority and determine if there had been changes in a credit union's condition that would require a revocation of the NCUA's approval. These commenters stated that such an approach would account for material changes in a credit union's condition without subjecting all credit unions to an arbitrary deadline.

The Board has considered these comments and will increase the expiration period to two years in the final rule. The Board understands that business and/or economic conditions can change rapidly, as has occurred during the global pandemic of 2020, and that a credit union may need a longer period to meet its strategic goals using Subordinated Debt. The Board believes this change in the final rule will provide credit unions with a longer issuance window and increased flexibility to issue Subordinated Debt. After thorough consideration, the Board has determined that a two-year expiration period strikes an appropriate balance between the competing concerns the Board noted in the proposed rule: ensuring that an Issuing Credit Union does not offer and sell Subordinated Debt Notes following a material change in the information on which the NCUA relied in approving the offer and sale of that Issuing Credit Union's Subordinated Debt Notes, and not unduly hindering the marketability of Subordinated Debt Notes.

In addition to expanding the expiration period, the Board is retaining, as proposed, a provision that allows an Issuing Credit Union to file a written request for one or more extensions of the two-year limit with the Appropriate Supervision Office, provided the request is filed at least 30 calendar days before the expiration of authority. The Board believes finalization of this provision, coupled with the expiration extension, will provide Issuing Credit Unions sufficient time to complete a Subordinated Debt issuance.

The Board notes, however, that in the event an Issuing Credit Union's circumstances materially change after the NCUA has approved an initial application but before the closing of the relevant offer and sale of Subordinated Debt Notes, the final rule requires an Issuing Credit Union to submit an amended application before it continues its Subordinated Debt Notes offering. The Board believe this provision is necessary to account for material changes in an Issuing Credit Union's conditions that may occur between approval and the final sale of Subordinated Debt.

d. Pro Forma Financial Statements

The proposed rule included an extension of the time horizon of the Pro Forma Financial Statements to five years compared to the Secondary Capital Rule's requirement of two years.[32] The Board requested comment on this extension and its impact on Issuing Credit Unions. Approximately five commenters addressed the proposed requirement that a credit union submit at least five years of Pro Forma Financial Statements with its application. Three of these commenters disagreed with the proposed increase from two to five years. One commenter stated that the NCUA should request Pro Forma Financial Statements based on the complexity of a proposed transaction rather than implementing a one-size-fits-all approach. Another commenter believed that two years of data was sufficient, as such data is mainly for the benefit of an investor. This commenter stated that an investor could request additional years of Pro Forma Financial Statements if needed.

Two commenters agreed with the proposed increase and sought additional information as part of the application and disclosure process. One commenter agreed with the breadth of the required pro forma data but suggested that the NCUA should also require credit unions to include tables that reflect actual results for the prior three-year period and a detailed narrative on how the issuer intends to secure the level of earnings presented in its Pro Forma Financial Statement. This commenter went on to suggest that such additional data should include a modest level of sensitivity analysis indicating likely performance under stressed conditions.

The Board has considered these comments and is reducing the minimum number of years for the Pro Forma Financial Statement requirement as part of the initial application from five years to two years for the final rule. The Board believes that an extended Pro Forma Financial Statement analysis of five years, which aligns with the minimum maturity of a Subordinated Debt Note, may provide useful information. However, the Board recognizes that the veracity of the analysis is equally important. Further, the quality of the assumptions and range of plausible scenarios used in the projections are as much a priority—and perhaps superior to—the number of years a credit union applied to those assumptions and scenarios. As such, the Board believes a reduction in the number of years from the proposed five to two is appropriate and will provide, in most cases, the necessary information for an Appropriate Supervision Office to render a decision on an initial application. The Board notes, however, that included in both the proposed rule and this final rule is a provision that permits an Appropriate Supervision Office to request additional information, such as additional years of Pro Forma Financial Statements, to support a credit union's application.

e. Filing Fees

Five commenters opposed any filing fees associated with the issuance of Subordinated Debt. These commenters generally stated that such fees may make such issuance cost prohibitive and overly burdensome, particularly in light of the other requirements in the proposed rule.

In response, the Board notes that both the proposed rule and this final rule do not require a filing fee, but do reserve the right of the Board to charge such a fee if warranted. The Board believes it is important to retain this flexibility to ensure that, if needed, the Board can assess an appropriate fee on applicants to cover the NCUA's cost of reviewing and processing such application. The Board notes that it would not impose a fee without a sufficient justification and may provide exceptions for smaller or low-income credit unions. Therefore, the Board is retaining this provision as proposed. However, the Board is clarifying in this final rule that the Board will publish a fee schedule on the NCUA's website only if the Board institutes a fee in the future.

[32] *Id.*

4. Investors

In the proposed rule, the Board limited the investors that could purchase Subordinated Debt to only Accredited Investors as defined by the SEC,[33] except that credit union ''insiders'' were specifically prohibited from purchasing or holding Subordinated Debt. Further, the proposed rule bifurcated the category of Accredited Investors into Natural Person Accredited Investors and Entity Accredited Investors. Finally, the proposed rule limited the permissible investor base to only U.S. investors.

Eight commenters addressed the issue of investors. The majority of these commenters sought additional flexibility in determining who may invest in Subordinated Debt. However, three commenters sought additional limitations on the type of investors or solicitation thereof.

Two commenters stated that permissible investors should not be limited to only U.S. investors. These commenters believed this would unduly restrain credit unions from conducting beneficial offerings of Subordinated Debt. Two other commenters, for similar reasons as the preceding commenters, requested that the NCUA allow permissible investors to include those other than Accredited Investors. Finally, one commenter requested the NCUA remove the limit on the number of permissible investors. This commenter felt any limit on the number of investors could limit a credit union's ability to conduct an issuance that it determines to be in its best interest.

Differing from the aforementioned commenters, three commenters sought additional limitations on the permissible investors or the solicitation thereof. Two commenters requested that the NCUA prohibit any federally insured credit union from investing in the Subordinated Debt of other credit unions. These commenters believed this prohibition would remove risk from the credit union system and offer a higher degree of protection for the NCUSIF. The Board notes that it discusses these comments in the section of this document related to FCUs being both an issuer and investor of Subordinated Debt. Finally, one commenter believed that credit unions should be prohibited from soliciting or offering Subordinated Debt at credit union branches. This commenter stated that this practice could introduce unnecessary reputation risk to credit unions that solicit or offer Subordinated Debt to unsophisticated members.

The Board is finalizing the sections on Investors as proposed, with one minor change. As noted in the preamble to the proposed rule, at the time, the SEC had proposed amendments to the definition of ''Accredited Investor.'' The SEC has now finalized these amendments.[34] These changes, which are effective December 8, 2020, expand the definition of ''Accredited Investor'' by adding several new categories of natural persons or entities the SEC considers Accredited Investors. The Board is adopting these changes to the definition of ''Accredited Investor'' by modifying the definitions of Entity and Natural Person Accredited Investor in this final rule. The proposed rule enumerated specific paragraphs of 17 CFR 230.501(a) that the NCUA would consider either Natural Person Accredited Investors or Entity Investors. To encompass the recent change by the SEC and future changes by the SEC, the Board is removing the specific citation references to 17 CFR 230.501(a). This is largely a technical change and is not intended to change the substantive definition of Entity or Natural Person Accredited Investors.

As noted previously, several commenters sought additional flexibilities for investors or the removal of investor limits completely. The Board does not believe it is prudent to remove the limitations on investors, as such limits were designed to protect investors and credit unions. As discussed in the proposed rule, disclosures are largely based on the sophistication of the investor. Therefore, the Board opted to limit investors to those that meet the SEC's definition of Accredited Investor. The Board believes this strikes an appropriate balance between providing credit unions with a wide investor base and helping credit unions avoid additional risks by offering Subordinated Debt to less-sophisticated investors.

Further, in response to the commenter that sought the ability to offer Subordinated Debt to non-U.S. citizens, the Board, as noted in the proposed rule, deliberately limited the issuance of Subordinated Debt to only U.S. citizens. This decision is based, in large part, on the additional complexities of issuing to foreign persons, which could subject Issuing Credit Unions to additional risk that could ultimately be passed on to the NCUSIF.

Except as discussed above, the Board is finalizing the sections on investors, as proposed.

a. Prohibition of an Issuing Credit Union's Board Members, Senior Executive Officers, or Their Immediate Family Members To Purchase or Hold Subordinated Debt Notes

The Board proposed to expand a credit union's current authority for permissible investors by allowing a credit union to issue Subordinated Debt to Natural Person Accredited Investors and Entity Accredited Investors, with the following restrictions on who may purchase or hold a Subordinated Debt Note issued by an Issuing Credit Union:

- Board member or Senior Executive Officer of the Issuing Credit Union; and
- Immediate Family Member of such board member or Senior Executive Officer of the Issuing Credit Union.

One commenter requested the NCUA reconsider these proposed prohibitions. The commenter noted that the Federal banking regulators do not prohibit related parties and insiders from buying stock in a mutual to stock conversion of a thrift institution. The commenter stated that educating board members, senior officers, and others within the sphere of concern should suffice to mitigate this concern by requiring insider trading policies and procedures regarding the management of material non-public information and related party transactions. The commenter also stated the Offering Document would have disclosures related to investments by related parties and insiders, and would disclose any potential conflict of interests. Given the NCUA's concern, the commenter stated the NCUA may wish to consider adding a requirement to the initial application requiring an applicant credit union to disclose whether any such individuals are anticipated investors. The commenter stated that a wholesale exclusion unduly limits the marketability and functionality of Subordinated Debt issuances by a credit union.

The Board continues to believe it is inappropriate to permit an Issuing Credit Union's board members, Senior Executive Officers, or their Immediate Family Members to purchase or hold Subordinated Debt Notes. The Board has concerns about potential conflicts of interest and fraud that could arise because such individuals may exercise control over an Issuing Credit Union and could have, or gain, access to material non-public information related to the Issuing Credit Union and/or the Subordinated Debt Notes. Despite commenters' assertions, the Board does not believe disclosures would be sufficient to address these concerns. For these reasons, the Board is retaining the prohibition on an Issuing Credit Union's

[33] 17 CFR 230.501(a).

[34] 85 FR 64234 (Oct. 9, 2020).

board members, Senior Executive Officers, or their Immediate Family Members purchasing or holding Subordinated Debt Notes in the final rule, without amendment.

5. Subordinated Debt Note Default Restriction

The proposed rule included a restriction on a Subordinated Debt Note including a term or condition that would trigger an event of default based on an Issuing Credit Union's default on other debts. Approximately five commenters opposed this restriction. One commenter suggested that the NCUA adopt a similar provision to the other banking agencies and use a certain threshold to determine when default on other debts would render an Issuing Credit Union in default on its Subordinated Debt. Other commenters suggested that default clauses are standard in debt obligations to allow parties to restructure deals in the event of material changes to the financial condition of the issuer.

After considering these comments, the Board is finalizing this restriction as proposed. While the Board recognizes that other banking regulators may impose a different requirement, the Board believes this restriction is prudent given the relative newness of the issuance of Subordinated Debt. In conjunction with the other provisions in this final rule, including interest repayment and repudiation safe harbors, the Board does not believe this restriction will cause an overly negative impact on the sale of Subordinated Debt Notes.

6. Minimum Denominations

To provide additional protections to Natural Person Accredited Investors that purchase Subordinated Debt Notes, the Board proposed that Subordinated Debt Notes sold or transferred to a Natural Person Accredited Investor be made in minimum denominations of $100,000 or $10,000, respectively. Approximately eight commenters addressed the issue of minimum denominations. The vast majority of these commenters sought lower minimum denomination amounts. One commenter, however, requested a higher minimum denomination amount.

Commenters that favored a lower minimum denomination amount generally agreed that the proposed limit of $100,000 was too high, particularly given the requirement that all investors qualify as Accredited Investors. The majority of these commenters argued that $10,000 was an appropriate minimum denomination. Some of these commenters cited the NCUA's proposed resale minimum denomination of $10,000 as a basis for selecting this amount as an overall minimum denomination. In addition, other commenters stated that a $10,000 minimum denomination would benefit small LICUs while being more than sufficient to help a small LICU avoid prompt corrective action.

As noted previously, one commenter sought a higher minimum denomination amount. This commenter urged the NCUA to adopt the OCC's $250,000 minimum denomination to discourage access by less financially sophisticated investors.

The Board has considered the comments on minimum denomination of a Subordinated Debt note when issued to a Natural Person Accredited Investor(s) and will retain the proposed minimum denomination of $100,000. As the Board stated in the proposed rule, the minimum denomination provides additional protection to Natural Person Accredited Investors that purchase Subordinated Debt Notes. The Board reiterates that such minimum denominations would not apply to Entity Accredited Investors because those purchasers are corporate entities that, in the Board's view, are generally sufficiently sophisticated in financial matters such that the additional protections afforded by minimum denominations are not necessary. The Board will retain no minimum denomination requirements for Subordinated Debt Notes sold to an Entity Accredited Investor.

The Board also stated requiring larger denomination notes will help ensure that the purchasers of the Subordinated Debt Notes are financially sophisticated and have substantial net worth. The Board disagrees that this provision will overly impact most LICUs. Currently LICUs may only issue secondary capital to entities. This final rule retains LICUs' ability to issue Subordinated Debt to an Entity Accredited Investor in any amount. The minimum denomination would only apply if a LICU sought to issue Subordinated Debt to the newly permissible category of Natural Person Accredited Investors.

7. Prohibition on an FCU Issuing and Investing in Subordinated Debt

The proposed rule included a requirement that an FCU investing in Subordinated Debt, Grandfathered Secondary Capital, or in loans and obligations issued by privately insured credit unions that are subordinate to a private insurer must not be an Issuing Credit Union of Subordinated Debt or Grandfathered Secondary Capital, or currently have approval from the NCUA to issue Subordinated Debt or Grandfathered Secondary Capital.

Approximately 12 commenters requested the NCUA reconsider the proposed prohibition on a credit union being both an issuer and investor in Subordinated Debt. The majority of these commenters stated that this type of investment scenario would not increase the magnitude of a loss to the NCUSIF. These commenters contended that the loss may be spread across multiple institutions, thereby mutualizing the risk of a loss. Further, one commenter stated that ''the investment of one credit union in the [Subordinated Debt] of another could benefit the credit union system overall because it is likely, or at least possible, that credit unions with higher net worth ratios will invest in those with lower net worth ratios.''

Commenters in favor of this type of investment scenario stated that concentration limits would serve as protection against extensive loss transfers, because the investing credit unions would only stand to lose the amount invested, which would be prudentially regulated by the NCUA.

Commenters also suggested that the NCUA add a line item to the Call Report to exclude all amounts invested in the Subordinated Debt of other credit unions. These commenters contended that, because this is primarily a reporting issue, adding a new item to the Call Report to reflect such investments would properly reflect the loss-absorbing capacity of the credit union system. Further, these commenters stated that this would address the NCUA's concern where an FCU issuing and investing in Subordinated Debt causes the appearance of increased net worth in the credit union system, while the actual loss-absorbing capacity of the system remains unchanged.

Conversely, two commenters requested that the NCUA prohibit any federally insured credit union from investing in the Subordinated Debt of other credit unions. These commenters believed this prohibition would remove risk from the credit union system and offer a higher degree of protection of the NCUSIF.

While most these commenters believe an FCU should be able to be an issuer and investor of Subordinated Debt, the Board continues to believe that an Issuing Credit union should not provide Regulatory Capital to other natural person credit unions. The Board continues to believe the potential to transmit losses between multiple credit unions that have both issued and invested in Subordinated Debt could

increase the risk of credit union failure and risk to the NCUSIF. The Board also notes that adding a line in the Call Report, as recommended by some commenters, would not decrease the potential risk of credit union failure due to loss transmission and would not decrease the risk to the NCUSIF. An added line to the Call Report would only provide information, and not risk mitigation. For these reasons, the Board is retaining the prohibition of an FCU issuing and investing in Subordinated Debt in the final rule without amendment.

8. Federally Insured, State-Chartered Credit Unions

The proposed rule required FISCUs to be subject to largely the same requirements related to the issuance of Subordinated Debt as FCUs. These include, but are not limited to, requirements related to the features and structure of the instrument. Approximately seven commenters addressed the issue of FISCUs being subject to the requirements of the NCUA's final Subordinated Debt rule. All but one of these commenters opposed the proposed rule as overly restrictive on FISCUs.

Commenters opposing this proposal stated that it would be in opposition to the dual-chartering system and could stifle innovation among FISCUs that have authorities beyond those of FCUs. One commenter stated that state regulators are sufficiently equipped to supervise the innovation of FISCUs as it develops.

One commenter also opposed the potential requirement for a FISCU to obtain an opinion that its issuance would not subject the credit union to state and Federal income taxes. This commenter stated that it is not clear that such an opinion would be needed under the proposed structure, because FISCUs would be held to the same standard as FCUs. Further, this commenter, in light of the cost of such an opinion, sought assurance from the NCUA that the request for such an opinion would be the exception rather than the norm.

Finally, as noted previously, one commenter was not completely opposed to FISCUs being subject to the same requirements as FCUs. This commenter stated it was unlikely that any instrument other than Subordinated Debt would be of much interest in the marketplace. Further, this commenter argued that all credit unions issuing the same form of instrument would help the market become more familiar with Subordinated Debt, thereby increasing investor interest and reducing the cost of issuing Subordinated Debt. This commenter did state, however, that while they saw benefits to all credit unions issuing the same instrument, they did not believe that a FISCU which was permitted by state law to issue a Subordinated Debt hybrid instrument should be restricted from doing so by the proposed rule.

As stated in the proposed rule, FISCUs may not be restricted under applicable state law and regulation to issuing only debt instruments. However, as administrator of the NCUSIF the Board continues to believe the framework for the types of instruments that would qualify for Regulatory Capital should be consistent for all credit unions. The Board notes that such structure may also help FISCUs retain their tax exemption, as debt issuances are likely not to be viewed as capital stock issuances.[35]

While the Board fully supports the dual-chartering system and innovation among all credit unions, it notes that all LICUs—both federally and state-chartered—are currently subject to the same Secondary Capital (or Prompt Corrective Action) requirements. Further, as articulated in the proposed rule, FISCUs may only issue Subordinated Debt if permitted under state law. The Board believes that requiring consistency among the types of instruments issued for Regulatory Capital treatment is in the best interest of both the NCUSIF and FISCUs. As such, the Board is finalizing, as proposed, those provisions that apply to FISCUs without amendment.

9. Prepayment

The proposed rule required a credit union to receive prior written approval from the Appropriate Supervision Office before the credit union prepays Subordinated Debt. Approximately five commenters addressed the issue of prepayment. The majority of these commenters sought a removal of the application process to prepay Subordinated Debt or a shortening of the timeframe for the NCUA to render a decision on such application.

These commenters stated that an application process was in opposition to the requirements contained in the OCC's regulation and could put credit unions at a competitive disadvantage. These commenters recommend allowing adequately capitalized credit unions to prepay any portion of their Subordinated Debt for which they no longer receive regulatory credit without prior regulatory approval.

In addition, one commenter stated that the NCUA should allow credit unions to draft agreements that allow for the redemption of discounted capital so they could count the remaining balance, in whole, as capital.

Another commenter stated that credit unions should have the flexibility to structure Subordinated Debt agreements with the ability to refinance the debt if the parties agreed to the concept of refinancing within an outlined placement agreement.

Finally, one commenter stated that inclusion of prepayment obligations and acceleration features is common in the capital markets, even for deeply subordinated instruments, and would be expected by many market participants. This commenter went on to recommend the NCUA allow for these features—particularly because the NCUA can protect the issuer and the NCUSIF by requiring an issuer to receive NCUA approval before making any payments.

The Board has reviewed the comments relating to prepayment of Subordinated Debt and will retain the provision of receiving prior approval in the proposed rule, with a 45-day timeframe for the NCUA to approve the application. While the 45-day approval timeframe is similar to the Secondary Capital Rule, the Board has eliminated the provision for automatic approval if a credit union is not notified of a decision by the Appropriate Supervision Office within the 45 days. The Board believes the regulatory relief in the proposed rule, including the ability to prepay any portion of the Subordinated Debt and a streamlined application (compared to the Secondary Capital Rule), provide sufficient regulatory relief to offset any burden imposed by removing the automatic approval. However, the Board sees the requirement for preapproval for prepayment as an important way to confirm that a credit union has sufficient capital and liquidity to repay Subordinated Debt without unduly increasing risk to the NCUSIF.

10. Limits on Loans to Other Credit Unions

The proposed rule included a new single-borrower limit for FCUs that make loans to other credit unions. The single-borrower limit would be the greater of 15 percent of an FCU's Net Worth or $100,000, plus an additional 10 percent of an FCU's Net Worth if that additional 10 percent is fully secured at all times with a perfected security interest by readily marketable collateral

[35] State chartered credit unions without capital stock, organized and operated for mutual purposes and without profit are exempt from Federal income tax under Internal Revenue Code 501(c)(14)(A). 26 U.S.C. 501(c)(14)(A).

as defined in § 723.2.[36] The limit would include Subordinated Debt and Grandfathered Secondary Capital, and would be in addition to the aggregate limit on such loans specified in the FCU Act. One commenter requested the NCUA not impose the proposed additional restrictions on loans to other credit unions.

The Board notes that the proposed single borrower limit is consistent with the single borrower limit in the NCUA's commercial lending and MBL rule.[37] Because credit unions share many similarities with traditional corporate borrowers, the Board continues to believe that basing the proposed single-borrower limit in this rule on the commercial and MBL rule limit is appropriate. Furthermore, the 15 percent of Net Worth single-borrower limit for FCUs that make loans to other credit unions would generally limit catastrophic losses to an FCU if the borrower defaults.

For these reasons, the Board is retaining the limits of an FCU making loans to other credit unions in the final rule without amendment.

11. Pooling

The Board did not include a provision for the pooling of Subordinated Debt issuances in the proposed rule. The Board notes that pooling generally involves combining more than one issuance in a standalone structure. Approximately three commenters advocated for the NCUA to explicitly permit pooling arrangements in any final Subordinated Debt rule. These commenters stated that allowing for pools of Subordinated Debt could make it easier and less expensive for credit unions to take issuances to the market. These commenters also believed that pools would reduce the risk of loss to investors by spreading loss across multiple credit unions rather than just one. Finally, one commenter argued that pooling would allow for larger issuances that may be able to be rated, thereby providing investors additional confidence in the issuance.

While the Board is not including a specific provision on pooling in this final rule, the Board notes that there is no prohibition in this final rule or the proposed rule on Subordinated Debt being pooled and sold to investors. The Board notes, however, that any such pool must comply with all of the NCUA's regulations and any applicable securities laws.

Finally, the Board notes that general investment authority in part 703 only permits FCUs to purchase pooled Subordinated Debt in the form of a registered investment company or collective investment fund, as long as the prospectus of the company or fund restricts the investment portfolio to investments and investment transactions that are permissible for FCUs.[38]

IV. Legal Authority

A. Authority To Issue Subordinated Debt

The borrowing authority granted to FCUs by the FCU Act, along with FCUs' statutory authority to enter into contracts and exercise incidental powers necessary or required to enable the FCUs to effectively carry on their business, supports the legal analysis that FCUs are authorized to incur indebtedness through the issuance of debt securities of the type contemplated by this final rule. Section 1757(9) of the FCU Act authorizes FCUs to borrow, in accordance with such rules and regulations as may be prescribed by the Board, from any source, in an aggregate amount not exceeding, except as authorized by the Board in carrying out the provisions of subchapter III, 50 per centum of its paid-in and unimpaired capital and surplus: Provided, that any Federal credit union may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid-in and unimpaired capital.[39]

Other than the provisions codified in § 701.38 of the NCUA's regulations, which address borrowed funds from natural persons, the FCU Act does not provide any details regarding the mechanisms FCUs may use to borrow.[40] Further, section 201(b)(7) of the FCU Act implicitly allows credit unions to issue securities.[41] Conversely, nothing in section 1757(9) or other provisions of the FCU Act impose any specific restrictions or limitations on the mechanisms FCUs may employ to borrow; specific limiting language, examples or illustrative transactions or situations, or otherwise, do not exist to introduce specific restrictions or limitations. This stands in sharp contrast to many other subsections of section 1757 of the FCU Act which, for example, go into significant detail describing the types and terms of loans and extensions of credit that FCUs are permitted to make,[42] and define the types of investments FCUs are permitted to make.[43] In addition, the NCUA's regulations do not impose any specific restrictions or limitations on the mechanisms an FCU may employ to borrow, through the use of specific limiting language, examples, illustrative transactions, or situations.

Overall, the lack of specific restrictions or limitations on the mechanisms that may be used and the specific authority granted in section 1757(9) to borrow ''from any source'' indicate that borrowings need not be limited to the types of arrangements typically entered into with banks, other credit unions, and other financial institutions (namely, loans, lines of credit, and similar arrangements). Further, the specific authority provided in section 1757(1) of the FCU Act that empowers FCUs to enter into contracts[44] further supports the conclusion that FCUs have the power to enter into a variety of different arrangements with respect to borrowing.[45] In addition, in the absence of specific restrictions and limitations, the ''incidental powers'' granted to FCUs in section 1757(17) of the FCU Act give significant discretion to FCUs with respect to how borrowings are effectuated.

Further support for the position that FCUs have the authority to issue debt

[36] 12 CFR 723.2.

[37] *Id.* § 723.4(c).

[38] 12 CFR 703.14(c).

[39] 12 U.S.C. 1757(9).

[40] In contrast, certain provisions of Title 12 of the United States Code relating to the regulation of other types of financial institutions expand on the institutions' basic authority to borrow money, including through the issuance of securities. For example, a Farm Credit System member is specifically authorized to:

- Borrow money from or loan to any other institution of the System, borrow from any commercial bank or other lending institution, issue its notes or other evidence of debt on its own individual responsibility and full faith and credit, and invest its excess funds in such sums, at such times, and on such terms and conditions as it may determine.
- Issue its own notes, bonds, debentures, or other similar obligations, fully collateralized as provided in section 2154(c) by the notes, mortgages, and security instruments it holds in the performance of its functions under this chapter in such sums, maturities, rates of interest, and terms and conditions of each issue as it may determine with approval of the Farm Credit Administration.

12 U.S.C. 2153(a) (b).

[41] *Id.* section 1781(b)(7).

[42] *Id.* section 1757(5).

[43] *Id.* section 1757(7); (15).

[44] *Id.* section 1757(1).

[45] Typical loan and line of credit arrangements entered into with banks, other credit unions, and other financial institutions are clearly contractual in nature. Debt securities are also generally viewed as primarily contractual in nature, in large measure because of the terms of the securities themselves or the terms incorporated into the securities through an indenture, an issuing and paying agent agreement or similar agreement. This view of debt securities has been expressed in a wide variety of court cases. *See, e.g., Katz* v. *Oak Industries, Inc.,* 508 A.2d 873, 878 (Del. Ch. 1986)) (''Under our law—and the law generally—the relationship between a corporation and the holders of its debt securities, even convertible debt securities, is contractual in nature.'').

securities may be found in U.S. GAAP treatment of items that fall in the category of ''borrowings.'' Under U.S. GAAP, liabilities relating to borrowed money are presented as indebtedness on an entity's balance sheet, and the interest paid is presented as interest expense on its income statement whether the borrowings are related to typical loan transactions, advances under lines of credit, or the issuance of debt securities. While the details of the different types of indebtedness for borrowed money are presented as separate line items in an entity's balance sheet and income statement, the treatment of ''straight'' indebtedness (indebtedness that does not have equity/residual ownership features, such as convertibility into shares) as liabilities, and interest paid thereon as interest expense, is essentially the same. In addition, while the details of the different types of indebtedness for borrowed money are presented as separate line items in the statement of cash flows, borrowings (whether in the form of loans from financial institutions or from the issuance of debt securities) are all presented in the ''cash flows from financing activities'' section of the statement.

Throughout this final rule, the Board has included requirements to ensure that any Subordinated Debt issued by an Issuing Credit Union would be properly characterized as debt in accordance with U.S. GAAP. These requirements, include that the Subordinated Debt or the Subordinated Debt Note, as applicable, must:

- Be in the form of a written, unconditional promise to pay on a specified date a sum certain in money in return for adequate consideration in money;
- Have, at the time of issuance, a fixed stated maturity of at least five years and not more than 20 years from issuance. The stated maturity of the Subordinated Debt Note may not reset and may not contain an option to extend the maturity; and
- Be properly characterized as debt in accordance with U.S. GAAP.

The Board notes that a FISCU's legal authority to issue Subordinated Debt derives from applicable state law and regulation. For the Subordinated Debt issued by a FISCU to qualify as Regulatory Capital under this final rule, however, a FISCU must comply with all of the provisions of this rule, including the FISCU-specific provisions.

B. Board Authority To Design RBC Standards

In addition to credit unions' authority to issue Subordinated Debt, the FCU Act provides the Board broad discretion to design the risk-based net worth standards.[46] Specifically, the FCU Act provides, in relevant part: ''The Board shall design the risk-based net worth requirement to take account of any material risks against which the net worth ratio required for an insured credit union to be ''Adequately Capitalized'' may not provide adequate protection.''[47]

In designing such a risk-based net worth standard, Congress did not restrict the types of instruments the Board may include in its calculation of risk-based net worth, except that such calculation must take account of material risks that the Net Worth Ratio alone may not protect against. The Board, as discussed in this preamble, is proposing this rule to grant authority to LICUs, Complex Credit Unions, and New Credit Unions to issue Subordinated Debt that will count as Regulatory Capital. Based on the requirements in this final rule, the Board believes Subordinated Debt will be an additional tool that accounts for material risks faced by credit unions against which the Net Worth Ratio alone may not protect.

While the Board has broad discretion to create the risk-based net worth standard, it does not have the authority to amend the statutory definition of Net Worth. The statutory definition of Net Worth currently includes secondary capital issued by a LICU that is uninsured and subordinate to all claims against the LICU.[48] As such, the Board notes two points with respect to Subordinated Debt and Net Worth. First, Subordinated Debt issued by a non-LICU is not included in that credit union's Net Worth or Net Worth Ratio. Second, Subordinated Debt issued by a LICU after the effective date of this final rule will be included in that credit union's Net Worth and Net Worth Ratio.

V. Regulatory Procedures

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that the Office of Management and Budget (OMB) approve all collections of information by a Federal agency from the public before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a valid OMB control number. In accordance with the PRA, the information collection requirements included in this final rule have been submitted to OMB for approval under control number 3133–0207.

B. Executive Order 13132

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

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

C. Assessment of Federal Regulations and Policies on Families

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

D. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) generally provides for congressional review of agency rules. A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by section 551 of the APA. An agency rule, in addition to being subject to congressional oversight, may also be subject to a delayed effective date if the rule is a ''major rule.'' The NCUA does not believe this rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. As required by SBREFA, the NCUA will submit this final rule to the Office of Management and Budget for it to determine if the final rule is a ''major rule'' for purposes of SBREFA. After the Office of Management and Budget makes it determination, the NCUA will file all appropriate reports.

List of Subjects

12 CFR Part 701

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages,

[46] As discussed previously, in 2015, the Board finalized a rule to replace the regulatory risk-based net worth requirement with an RBC requirement. This rule is effective January 1, 2022.

[47] 12 U.S.C. 1790d(d).

[48] 12 U.S.C. 1790d(o)(2).

Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 709

Claims, Credit unions.

12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the NCUA Board on December 17, 2020.

Melane Conyers-Ausbrooks,

Secretary of the Board.

For the reasons discussed in the preamble, NCUA amends 12 CFR parts 701, 702, 709, and 741 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq.; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Add § 701.25 to read as follows:

§ 701.25 Loans to credit unions.

(a) *Limits.* A Federal credit union may make loans, including investments in Subordinated Debt, to other credit unions, including corporate credit unions and privately insured credit unions, subject to the following limits:

(1) *Aggregate limit.* The aggregate principal amount of loans to other credit unions may not exceed 25 percent of the Federal credit union's paid-in and unimpaired capital and surplus.

(2) *Single borrower limit.* The aggregate principal amount of loans made to any one credit union may not exceed the greater of 15 percent of the Federal credit union's net worth, as defined in part 702 of this chapter, at the time of the closing of the loan or $100,000, plus an additional 10 percent of the Federal credit union's net worth if the amount that exceeds the Federal credit union's 15 percent general limit is fully secured at all times with a perfected security interest by readily marketable collateral as defined in § 723.2 of this chapter.

(b) *Approval and policies.* A Federal credit union's board of directors must approve all loans to other credit unions and establish written policies for making such loans. The written policies must, at a minimum, include the following:

(1) How the Federal credit union will manage the credit risk of loans to other credit unions; and

(2) The limits on the aggregate principal amount of loans the Federal credit union can make to other credit unions. The policies must specify the limits on the aggregate principal amount of loans the Federal credit union can make to all other credit unions and the aggregate principal amount of loans the Federal credit union can make to any single credit union; provided that any limits included in such policies do not exceed the limits in this section.

(c) *Investment in Subordinated Debt*—(1) *Eligibility.* A Federal credit union may only invest, directly or indirectly, in the Subordinated Debt of federally insured, natural person credit unions, or in loans or obligations issued by a privately insured credit union that are subordinate to the private insurer; provided that the investing Federal credit union:

(i) Has at the time of the investment, a capital classification of ''well capitalized,'' as defined in part 702 of this chapter;

(ii) Does not have any outstanding Subordinated Debt or Grandfathered Secondary Capital, in each case with respect to which it was the Issuing Credit Union (as defined in part 702 of this chapter); and

(iii) Is not eligible to issue Subordinated Debt or Grandfathered Secondary Capital pursuant to an unexpired approval from the NCUA under subpart D of part 702 of this chapter.

(2) *Aggregate limit*—(i) *Aggregate limit.* A Federal credit union's aggregate investment (direct or indirect) in the Subordinated Debt and Grandfathered Secondary Capital of any federally insured, natural person credit union, and in loans or obligations issued by a privately insured credit union that are subordinate to the private insurer, may not cause such aggregate investment to exceed, at the time of the investment, the lesser of:

(A) 25 percent of the investing Federal credit union's net worth at the time of the investment; and

(B) Any amount of net worth in excess of seven percent (7%) of total assets.

(ii) *Calculation of aggregate limit.* The amount subject to the limit in paragraph (c)(2)(i)(A) of this section is calculated at the time of investment, and is based on a Federal credit union's aggregate outstanding:

(A) Investment in Subordinated Debt;

(B) Investment in Grandfathered Secondary Capital;

(C) Investment in loans or obligations issued by a privately insured credit union that are subordinate to the private insurer; and

(D) Loans or portion of loans made by the credit union that is secured by any Subordinated Debt, Grandfathered Secondary Capital, or loans or obligations issued by a privately insured credit union that are subordinate to the private insurer.

(3) *Indirect investment.* A Federal credit union must determine its indirect exposure by calculating its proportional ownership share of each exposure held in a fund, or similar indirect investment. The Federal credit union's exposure to the fund is equal to the exposure held by the fund as if they were held directly by the Federal credit union, multiplied by the Federal credit union's proportional ownership share of the fund.

■ 3. In § 701.34:

■ a. Revise the section heading;

■ b. Remove and reserve paragraph (b); and

■ c. Remove paragraphs (c) and (d) and the appendix to § 701.34.

The revision reads as follows:

§ 701.34 Designation of low income status.

* * * * *

■ 4. Revise § 701.38 to read as follows:

§ 701.38 Borrowed funds.

(a) Federal credit unions may borrow funds from any source; provided that:

(1) The borrowing is evidenced by a written contract, such as a signed promissory note, that sets forth the terms and conditions including, at a minimum, maturity, prepayment, interest rate, method of computation of interest, and method of payment; and

(2) The written contract and any solicitation with respect to such borrowing contain clear and conspicuous language indicating that:

(i) The funds represent money borrowed by the Federal credit union; and

(ii) The funds do not represent shares and, therefore, are not insured by the National Credit Union Administration.

(b) A Federal credit union is subject to the maximum borrowing authority of an aggregate amount not exceeding 50 percent of its paid-in and unimpaired capital and surplus. Provided that any Federal credit union may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid-in and unimpaired capital (12 U.S.C. 1757(9)).

PART 702—CAPITAL ADEQUACY

■ 5. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

■ 6. In § 702.2:
■ a. Add a sentence after the first sentence of the introductory text;
■ b. Add a definition for ''Grandfathered Secondary Capital'' in alphabetical order;
■ c. Amend the definition of ''Net worth'' by revising the introductory text and paragraphs (1) and (2); and
■ d. Add a definition for ''Subordinated Debt'' in alphabetical order.

The additions and revisions read as follows:

§ 702.2 Definitions.

* * * All accounting terms not otherwise defined in this section have meanings consistent with the commonly-accepted meanings under United States generally accepted accounting principles (U.S. GAAP).
* * *

Grandfathered Secondary Capital means any secondary capital issued under 12 CFR 701.34 (revised as of January 1, 2021) or, in the case of a federally insured, state-chartered credit union, with § 741.204(c) of this chapter, before January 1, 2022. (12 CFR 701.34 was recodified as § 702.414 as of January 1, 2022.)

* * * * *

Net worth means, with respect to any federally insured, natural person credit union, as of any date of determination:

(1) The retained earnings balance of the credit union at the most recent quarter end, as determined in accordance with U.S. GAAP, subject to paragraph (3) of this definition.

(2) With respect to a low-income designated credit union, the outstanding principal amount of Subordinated Debt treated as Regulatory Capital in accordance with § 702.407, and the outstanding principal amount of Grandfathered Secondary Capital treated as Regulatory Capital in accordance with § 702.414, in each case that is:

(i) Uninsured; and

(ii) Subordinate to all other claims against the credit union, including claims of creditors, shareholders, and the National Credit Union Share Insurance Fund.

* * * * *

Subordinated Debt has the meaning as provided in subpart D of this part.

* * * * *

■ 7. In § 702.104, revise paragraph (b)(1)(vii) and add paragraph (c)(2)(v)(B)(*9*) to read as follows:

§ 702.104 Risk-based capital ratio.

* * * * *

(b) * * *

(1) * * *

(vii) The outstanding principal amount of Subordinated Debt treated as Regulatory Capital in accordance with § 702.407 and the outstanding principal amount of Grandfathered Secondary Capital treated as Regulatory Capital in accordance with § 702.414; and

* * * * *

(c) * * *

(2) * * *

(v) * * *

(B) * * *

(*9*) Natural person credit union Subordinated Debt, Grandfathered Secondary Capital, and loans or obligations issued by a privately insured credit union that are subordinate to the private insurer.

* * * * *

■ 8. Amend § 702.109 by:
■ a. Redesignating paragraphs (a)(3) and (4) as paragraphs (a)(4) and (5), respectively;
■ b. Adding new paragraph (a)(3); and
■ c. Revising paragraph (b)(11).

The addition and revision read as follows:

§ 702.109 Prompt corrective action for critically undercapitalized credit unions.

(a) * * *

(3) *Restrictions on payments on Subordinated Debt.* Beginning 60 days after the effective date of a federally insured, natural person credit union being classified by the NCUA as ''critically undercapitalized'', that credit union shall not pay principal of or interest on its Subordinated Debt, except that unpaid interest shall continue to accrue under the terms of the related Subordinated Debt Note (as defined in subpart D of this part), to the extent permitted by law;

* * * * *

(b) * * *

(11) *Restrictions on payments on Grandfathered Secondary Capital.* Beginning 60 days after the effective date of classification of a credit union as ''critically undercapitalized'', prohibit payments of principal, dividends or interest on the credit union's Grandfathered Secondary Capital (as defined in subpart D of this part), except that unpaid dividends or interest shall continue to accrue under the terms of the account to the extent permitted by law;

* * * * *

■ 10. Revise § 702.205(d) to read as follows:

§ 702.205 Prompt corrective action for uncapitalized new credit unions.

* * * * *

(d) *Discretionary liquidation of an uncapitalized new credit union.* In lieu of paragraph (c) of this section, an uncapitalized new credit union may be placed into liquidation on grounds of insolvency pursuant to 12 U.S.C. 1787(a)(1)(A).

§ 702.206 [Amended]

■ 11. Amend § 702.206 by removing paragraph (d) and redesignating paragraphs (e) through (h) as (d) through (g), respectively.

§ § 702.207 through 702.210 [Redesignated as §§ 702.208 through 702.211]

■ 12. Redesignate §§ 702.207 through 702.210 as §§ 702.208 through 702.211, respectively.

■ 13. Add new § 702.207 to read as follows:

§ 702.207 Consideration of Subordinated Debt and Grandfathered Secondary Capital for new credit unions.

(a) *Exception from prompt corrective action for new credit unions.* The requirements of §§ 702.204 and 702.205 do not apply to a new credit union if, as of the applicable date of determination, each of the following conditions is satisfied:

(1) The new credit union has outstanding Subordinated Debt or Grandfathered Secondary Capital;

(2) The Subordinated Debt or Grandfathered Secondary Capital would be treated as Regulatory Capital under subpart D of this part if the new credit union were a complex credit union or a low income-designated credit union;

(3) The ratio of the new credit union's net worth (including the amount of its Subordinated Debt and Grandfathered Secondary Capital treated as Regulatory Capital (as defined in subpart D of this part)) to its total assets is at least seven percent (7%); and

(4) The new credit union's net worth is increasing in a manner consistent with the new credit union's approved initial business plan or RBP.

(b) *Consideration of Subordinated Debt and Grandfathered Secondary Capital in evaluating an RBP.* The NCUA shall, in evaluating an RBP under this subpart, consider a new credit union's aggregate outstanding principal amount of Subordinated Debt and Grandfathered Secondary Capital.

(c) *Prompt corrective action based on other supervisory criteria*—(1) *Application of prompt corrective action to an exempt new credit union.* The NCUA Board may apply prompt corrective action to a new credit union

that is otherwise exempt under paragraph (a) of this section in the following circumstances:

(i) *Unsafe or unsound condition.* The NCUA Board has determined, after providing the new credit union with written notice and opportunity for hearing pursuant to § 747.2003 of this chapter, that the new credit union is in an unsafe or unsound condition; or

(ii) *Unsafe or unsound practice.* The NCUA Board has determined, after providing the new credit union with written notice and opportunity for hearing pursuant to § 747.2003 of this chapter, that the new credit union has not corrected a material unsafe or unsound practice of which it was, or should have been, aware.

(2) *Non-delegation.* The NCUA Board may not delegate its authority under paragraph (c) of this section.

(3) *Consultation with state officials.* The NCUA Board shall consult and seek to work cooperatively with the appropriate state official before taking action under paragraph (c) of this section and shall promptly notify the appropriate state official of its decision to take action under paragraph (c) of this section.

(d) *Discretionary liquidation.* Notwithstanding paragraph (a) of this section, the NCUA may place a new credit union into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A), provided that the new credit union's ratio under paragraph (a)(3) of this section is, as of the applicable date of determination, below six percent (6%) and the new credit union has no reasonable prospect of becoming ''adequately capitalized'' under § 702.202.

(e) *Restrictions on payments on Subordinated Debt.* Beginning 60 days after the effective date of a new credit union being classified by the NCUA as ''uncapitalized'', the new credit union shall not pay principal of or interest on its Subordinated Debt, except that unpaid interest shall continue to accrue under the terms of the related Subordinated Debt Note, to the extent permitted by law.

■ 14. Add subpart D to read as follows:

Subpart D—Subordinated Debt, Grandfathered Secondary Capital, and Regulatory Capital

Sec.
702.401 Purpose and scope.
702.402 Definitions.
702.403 Eligibility.
702.404 Requirements of the Subordinated Debt and Subordinated Debt Note.
702.405 Disclosures.
702.406 Requirements related to the offer, sale, and issuance of Subordinated Debt Notes.
702.407 Discounting of amount treated as Regulatory Capital.
702.408 Preapproval to issue Subordinated Debt.
702.409 Preapproval for federally insured, state-chartered credit unions to issue Subordinated Debt.
702.410 Interest payments on Subordinated Debt.
702.411 Prior written approval to prepay Subordinated Debt.
702.412 Effect of a merger or dissolution on the treatment of Subordinated Debt as Regulatory Capital.
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Appendix A to Subpart D of Part 702—Disclosure and Acknowledgement Form

Subpart D—Subordinated Debt, Grandfathered Secondary Capital, and Regulatory Capital

§ 702.401 Purpose and scope.

(a) *Subordinated Debt.* This subpart sets forth the requirements applicable to all Subordinated Debt issued by a federally insured, natural person credit union, including the NCUA's review and approval of that credit union's application to issue or prepay Subordinated Debt. This subpart shall apply to a federally insured, state-chartered credit union only to the extent that such federally insured, state-chartered credit union is permitted by applicable state law to issue debt instruments of the type described in this subpart. To the extent that such state law is more restrictive than this subpart with respect to the issuance of such debt instruments, that state law shall apply. Any secondary capital, as that term is used in the Federal Credit Union Act, issued after January 1, 2022, is Subordinated Debt and subject to the requirements of this subpart.

(b) *Grandfathered Secondary Capital.* Any secondary capital issued under § 701.34 of this chapter before January 1, 2022, is governed by § 702.414. Grandfathered Secondary Capital will no longer be treated as Regulatory Capital as of January 1, 2042.

§ 702.402 Definitions.

To the extent they differ, the definitions in this section apply only to Subordinated Debt and not to Grandfathered Secondary Capital. (Definitions applicable to Grandfathered Secondary Capital are in § 702.414.) All other terms in this subpart and not expressly defined in this section have the meanings assigned to them elsewhere in this part. For ease of use, certain key terms are included in this section using cross citations to other sections of this part where those terms are defined.

Accredited Investor means a Natural Person Accredited Investor or an Entity Accredited Investor, as applicable.

Appropriate Supervision Office means, with respect to any credit union, the Regional Office or Office of National Examinations and Supervision that is responsible for supervision of that credit union.

Complex credit union has the same meaning as in subpart A of this part.

Entity Accredited Investor means an entity that, at the time of offering and closing of the issuance and sale of Subordinated Debt to that entity, meets the requirements of 17 CFR 230.501(a).

Grandfathered Secondary Capital means any secondary capital issued under 12 CFR 701.34 (revised as of January 1, 2021) or, in the case of a federally insured, state-chartered credit union, with § 741.204(c) of this chapter, before January 1, 2022. (12 CFR 701.34 was recodified as § 702.414 as of January 1, 2022.)

Immediate Family Member means spouse, child, sibling, parent, grandparent, or grandchild (including stepparents, stepchildren, stepsiblings, and adoptive relationships).

Issuing Credit Union means, for purposes of this subpart, a credit union that has issued, or is in the process of issuing, Subordinated Debt or Grandfathered Secondary Capital in accordance with the requirements of this subpart.

Low-income designated credit union (LICU) is a credit union designated as having low-income status in accordance with § 701.34 of this chapter.

Natural Person Accredited Investor means a natural person who, at the time of offering and closing of the issuance and sale of Subordinated Debt to that person, meets the requirements of 17 CFR 230.501(a); *provided* that, for purposes of purchasing or holding any Subordinated Debt Note, this term shall not include any board member or Senior Executive Officer of the Issuing Credit Union or any Immediate Family Member of any board member or Senior Executive Officer of the Issuing Credit Union.

Net worth has the same meaning as in § 702.2.

Net worth ratio has the same meaning as in § 702.2.

New credit union has the same meaning as in § 702.201.

Offering Document means the document(s) required by § 702.408, including any term sheet, offering memorandum, private placement memorandum, offering circular, or other similar document used to offer and sell Subordinated Debt Notes.

Pro Forma Financial Statements means projected financial statements that show the effects of proposed transactions as if they actually occurred in a variety of plausible scenarios, including both optimistic and pessimistic assumptions, over measurement horizons that align with the credit union's expected activities.

Qualified Counsel means an attorney licensed to practice law in the relevant jurisdiction(s) who has expertise in the areas of Federal and state securities laws and debt transactions similar to those described in this subpart.

Regulatory Capital means:

(1) With respect to an Issuing Credit Union that is a LICU and not a complex credit union, the aggregate outstanding principal amount of Subordinated Debt and, until January 1, 2042, Grandfathered Secondary Capital that is included in the credit union's net worth ratio;

(2) With respect to an Issuing Credit Union that is a complex credit union and not a LICU, the aggregate outstanding principal amount of Subordinated Debt that is included in the credit union's RBC Ratio;

(3) With respect to an Issuing Credit Union that is both a LICU and a complex credit union, the aggregate outstanding principal amount of Subordinated Debt and, until January 1, 2042, Grandfathered Secondary Capital that is included in its net worth ratio and in its RBC Ratio; and

(4) With respect to a new credit union, the aggregate outstanding principal amount of Subordinated Debt and, until January 1, 2042, Grandfathered Secondary Capital that is considered pursuant to § 702.207.

Retained Earnings has a meaning that is consistent with the one for this term under United States GAAP.

Risk-based capital (RBC) ratio has the same meaning as in § 702.2.

Senior Executive Officer means a credit union's chief executive officer (for example, president or treasurer/manager), any assistant chief executive officer (*e.g.,* any assistant president, any vice president or any assistant treasurer/manager) and the chief financial officer (controller). The term ''Senior Executive Officer'' also includes employees and contractors of an entity, such as a consulting firm, hired to perform the functions of positions covered by the term Senior Executive Officer.

Subordinated Debt means an Issuing Credit Union's borrowing that meets the requirements of this subpart, including all obligations and contracts related to such borrowing.

Subordinated Debt Note means the written contract(s) evidencing the Subordinated Debt.

§ 702.403 Eligibility.

(a) Subject to receiving approval under § 702.408 or § 702.409, a credit union may issue Subordinated Debt only if, at the time of such issuance, the credit union is:

(1) A complex credit union with a capital classification of at least ''undercapitalized,'' as defined in § 702.102;

(2) A LICU;

(3) Able to demonstrate to the satisfaction of the NCUA that it reasonably anticipates becoming either a complex credit union meeting the requirements of paragraph (a)(1) of this section or a LICU within 24 months after issuance of the Subordinated Debt Notes; or

(4) A new credit union with Retained Earnings equal to or greater than one percent (1%) of assets.

(b) At the time of issuance of any Subordinated Debt, an Issuing Credit Union may not have any investments, direct or indirect, in Subordinated Debt or Grandfathered Secondary Capital (or any interest therein) of another credit union. If a credit union acquires Subordinated Debt or Grandfathered Secondary Capital in a merger or other consolidation, the Issuing Credit Union may still issue Subordinated Debt, but it may not invest (directly or indirectly) in the Subordinated Debt or Grandfathered Secondary Capital of any other credit union while any Subordinated Debt Notes issued by the Issuing Credit Union remain outstanding.

(c) If the Issuing Credit Union is a complex credit union that is not also a LICU, the aggregate outstanding principal amount of all Subordinated Debt issued by that Issuing Credit Union may not exceed 100 percent of its net worth, as determined at the time of each issuance of Subordinated Debt.

§ 702.404 Requirements of the Subordinated Debt and Subordinated Debt Note.

(a) *Requirements.* At a minimum, the Subordinated Debt or the Subordinated Debt Note, as applicable, must:

(1) Be in the form of a written, unconditional promise to pay on a specified date a sum certain in money in return for adequate consideration in money;

(2) Have, at the time of issuance, a fixed stated maturity of at least five years and not more than 20 years from issuance. The stated maturity of the Subordinated Debt Note may not reset and may not contain an option to extend the maturity;

(3) Be subordinate to all other claims in liquidation under § 709.5(b) of this chapter, and have the same payout priority as all other outstanding Subordinated Debt and Grandfathered Secondary Capital;

(4) Be properly characterized as debt in accordance with U.S. GAAP;

(5) Be unsecured, including, without limitation, prohibiting the establishment of any legally enforceable claim against funds earmarked for payment of the Subordinated Debt through:

(i) A compensating balance or any other funds or assets subject to a legal right of offset, as defined by applicable state law; or

(ii) A sinking fund, such as a fund formed by periodically setting aside money for the gradual repayment of the Subordinated Debt;

(6) Be applied by the Issuing Credit Union at the end of each of its fiscal years (or more frequently as determined by the Issuing Credit Union) in which the Subordinated Debt remains outstanding to cover any deficit in Retained Earnings on a pro rata basis among all holders of the Subordinated Debt and Grandfathered Secondary Capital of the Issuing Credit Union; it being understood that any amounts applied to cover a deficit in Retained Earnings shall no longer be considered due and payable to the holder(s) of the Subordinated Debt or Grandfathered Secondary Capital;

(7) Except as provided in §§ 702.411 and 702.412(c), be payable in full by the Issuing Credit Union or its successor or assignee only at maturity;

(8) Disclose any prepayment penalties or restrictions on prepayment;

(9) Be offered, issued, and sold only to Entity Accredited Investors or Natural Person Accredited Investors, in accordance § 702.406; and

(10) Be re-offered, reissued, and resold only to an Entity Accredited Investor (if the initial offering, issuance, and sale was solely made to Entity Accredited Investors) or any Accredited Investor (if the initial offering, issuance, and sale involved one or more Natural Person Accredited Investors).

(b) *Restrictions.* The Subordinated Debt or the Subordinated Debt Note, as applicable, must not:

(1) Be structured or identified as a share, share account, or any other instrument in the Issuing Credit Union that is insured by the National Credit Union Administration;

(2) Include any express or implied terms that make it senior to any other Subordinated Debt issued under this subpart or Grandfathered Secondary Capital;

(3) Cause the Issuing Credit Union to exceed the borrowing limit in § 741.2 of this chapter or, for federally insured, state-chartered credit unions, any more restrictive state borrowing limit;

(4) Provide the holder thereof with any management or voting rights in the Issuing Credit Union;

(5) Be eligible to be pledged or provided by the investor as security for a loan from, or other obligation owing to, the Issuing Credit Union;

(6) Include any express or implied term, condition, or agreement that would require the Issuing Credit Union to prepay or accelerate payment of principal of or interest on the Subordinated Debt prior to maturity, including investor put options;

(7) Include an express or implied term, condition, or agreement that would trigger an event of default based on the Issuing Credit Union's default on other debts;

(8) Include any condition, restriction, or requirement based on the Issuing Credit Union's credit quality or other credit-sensitive feature; or

(9) Require the Issuing Credit Union to make any form of payment other than in cash.

(c) *Negative covenants.* A Subordinated Debt Note must not include any provision or covenant that unduly restricts or otherwise acts to unduly limit the authority of the Issuing Credit Union or interferes with the NCUA's supervision of the Issuing Credit Union. This includes, but is not limited to, a provision or covenant that:

(1) Requires the Issuing Credit Union to maintain a minimum amount of Retained Earnings or other metric, such as a minimum net worth ratio or minimum asset, liquidity, or loan ratios;

(2) Unreasonably restricts the Issuing Credit Union's ability to raise capital through the issuance of additional Subordinated Debt;

(3) Provides for default of the Subordinated Debt as a result of the Issuing Credit Union's compliance with any law, regulation, or supervisory directive from the NCUA or, if applicable, the state supervisory authority;

(4) Provides for default of the Subordinated Debt as the result of a change in the ownership, management, or organizational structure or charter of the Issuing Credit Union; provided that, following such change, the Issuing Credit Union or the resulting institution, as applicable:

(i) Agrees to perform all of the obligations, terms, and conditions of the Subordinated Debt; and

(ii) At the time of such change, is not in material default of any provision of the Subordinated Debt Note, after giving effect to the applicable cure period described in paragraph (d) of this section; and

(5) Provides for default of the Subordinated Debt as the result of an act or omission of any third party, including but not limited to a credit union service organization, as defined in § 712.1(d) of this chapter.

(d) *Default covenants.* A Subordinated Debt Note that includes default covenants must provide the Issuing Credit Union with a reasonable cure period of not less than 30 calendar days.

(e) *Minimum denominations of issuances to Natural Person Accredited Investors.* An Issuing Credit Union may only issue Subordinated Debt Notes to Natural Person Accredited Investors in minimum denominations of $100,000, and cannot exchange any such Subordinated Debt Notes after the initial issuance or any subsequent resale for Subordinated Debt Notes of the Issuing Credit Union in denominations less than $10,000. Each such Subordinated Debt Note, if issued in certificate form, must include a legend disclosing that it cannot be exchanged for Subordinated Debt Notes of the Issuing Credit Union in denominations less than $100,000, and Subordinated Debt Notes issued in book-entry or other uncertificated form shall include appropriate instructions prohibiting the exchange of such Subordinated Debt Notes for Subordinated Debt Notes of the Issuing Credit Union in denominations that would violate the foregoing restrictions.

§ 702.405 Disclosures.

(a) An Issuing Credit Union must disclose the following language clearly, in all capital letters, on the face of a Subordinated Debt Note:

- THIS OBLIGATION IS NOT A SHARE IN THE ISSUING CREDIT UNION AND IS NOT INSURED BY THE NATIONAL CREDIT UNION ADMINISTRATION.
- THIS OBLIGATION IS UNSECURED AND SUBORDINATE TO ALL CLAIMS AGAINST THE ISSUING CREDIT UNION AND IS INELIGIBLE AS COLLATERAL FOR A LOAN BY THE ISSUING CREDIT UNION.
- AMOUNTS OTHERWISE PAYABLE HEREUNDER MAY BE REDUCED IN ORDER TO COVER ANY DEFICIT IN RETAINED EARNINGS OF THE ISSUING CREDIT UNION. AMOUNTS APPLIED TO COVER ANY SUCH DEFICIT WILL RESULT IN A CORRESPONDING REDUCTION OF THE PRINCIPAL AMOUNT OF ALL OUTSTANDING SUBORDINATED DEBT ISSUED BY THE ISSUING CREDIT UNION, AND WILL NO LONGER BE DUE AND PAYABLE TO THE HOLDERS OF SUCH SUBORDINATED DEBT. AMOUNTS APPLIED TO COVER ANY SUCH DEFICIT MUST BE APPLIED AMONG ALL HOLDERS OF SUCH SUBORDINATED DEBT PRO RATA BASED ON THE AGGREGATE AMOUNT OF SUBORDINATED DEBT OWED BY THE ISSUING CREDIT UNION TO EACH SUCH HOLDER AT THE TIME OF APPLICATION.
- THIS OBLIGATION CAN ONLY BE REPAID AT MATURITY OR IN ACCORDANCE WITH 12 CFR 702.411. THIS OBLIGATION MAY ALSO BE REPAID IN ACCORDANCE WITH 12 CFR PART 710 IF THE ISSUING CREDIT UNION VOLUNTARILY LIQUIDATES.
- THE NOTE EVIDENCING THIS OBLIGATION HAS NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE ''SECURITIES ACT''), OR THE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES OR ANY OTHER JURISDICTION, AND MAY BE ISSUED, SOLD, PLEDGED, OR OTHERWISE TRANSFERRED ONLY (A) AS PERMITTED IN THE NOTE AND TO A PERSON WHOM THE ISSUER OR SELLER REASONABLY BELIEVES IS [AN ''ACCREDITED INVESTOR'' (AS DEFINED IN 12 CFR 702.402)] [AN ''ENTITY ACCREDITED INVESTOR'' (AS DEFINED IN 12 CFR 702.402)] (THAT IS NOT A MEMBER OF THE ISSUING CREDIT UNION'S BOARD, A SENIOR EXECUTIVE OFFICER OF THE ISSUING CREDIT UNION (AS THAT TERM IS DEFINED IN 12 CFR 702.402), OR ANY IMMEDIATE FAMILY MEMBER OF ANY SUCH BOARD MEMBER OR SENIOR EXECUTIVE OFFICER), PURCHASING FOR ITS OWN ACCOUNT, (1) TO WHOM NOTICE IS GIVEN THAT THE SALE, PLEDGE, OR OTHER TRANSFER IS BEING MADE IN RELIANCE ON THE EXEMPTION FROM SECURITIES ACT REGISTRATION PROVIDED BY SECTION 3(a)(5) OF THE SECURITIES ACT, OR (2) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (SUBJECT TO THE DELIVERY OF SUCH CERTIFICATIONS, LEGAL OPINIONS, OR OTHER INFORMATION AS THE ISSUING CREDIT UNION MAY REASONABLY REQUIRE TO CONFIRM THAT SUCH SALE, PLEDGE, OR TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT), (B) IN COMPLIANCE WITH THE CERTIFICATION AND OTHER REQUIREMENTS SPECIFIED IN THE [INDENTURE OR OTHER DOCUMENT PURSUANT TO WHICH THE SUBORDINATED DEBT NOTE IS ISSUED] REFERRED TO HEREIN, AND (C) IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICATION JURISDICTION.

(b) An Issuing Credit Union must also clearly and accurately disclose in the Subordinated Debt Note:

(1) The payout priority and level of subordination, as described in § 709.5(b) of this chapter, that would apply in the event of the involuntary liquidation of the Issuing Credit Union;

(2) A general description of the NCUA's regulatory authority that includes, at a minimum:

(i) If the Issuing Credit Union is ''undercapitalized'' or, if the Issuing Credit Union is a New Credit Union, ''moderately capitalized'' (each as defined in this part), and fails to submit an acceptable net worth restoration plan, capital restoration plan, or revised business plan, as applicable, or materially fails to implement such a plan that was approved by the NCUA, the Issuing Credit Union may be subject to all of the additional restrictions and requirements applicable to a ''significantly undercapitalized'' credit union or, if the Issuing Credit Union is a new credit union, a ''marginally capitalized'' new credit union; and

(ii) Beginning 60 days after the effective date of an Issuing Credit Union being classified as ''critically undercapitalized'' or, in the case of a new credit union, ''uncapitalized,'' the Issuing Credit Union shall not pay principal of or interest on its Subordinated Debt, until reauthorized to do so by the NCUA; provided, however, that unpaid interest shall continue to accrue under the terms of the Subordinated Debt Note, to the extent permitted by law; and

(3) The risk factors associated with the NCUA's or, if applicable, the state supervisory authority's, authority to conserve or liquidate a credit union under the Federal Credit Union Act (FCU Act) or applicable state law.

§ 702.406 Requirements related to the offer, sale, and issuance of Subordinated Debt Notes.

(a) *Offering Document.* An Issuing Credit Union or person acting on behalf of or at the direction of any Issuing Credit Union may only issue and sell Subordinated Debt Notes if, a reasonable time prior to the issuance and sale of any Subordinated Debt Notes, each purchaser of a Subordinated Debt Note receives an Offering Document that meets the requirements of § 702.408(e) and such further material information, if any, as may be necessary to make the required disclosures in that Offering Document, in the light of the circumstances under which they are made, not misleading.

(b) *Territorial limitations.* An Issuing Credit Union may only offer, issue, and sell Subordinated Debt Notes in the United States of America (including any one of the states thereof and the District of Columbia), its territories, and its possessions. This limitation includes a prohibition on non-U.S. investors holding or purchasing Subordinated Debt Notes.

(c) *Accredited Investors.* An Issuing Credit Union may only offer, issue, and sell Subordinated Debt to Accredited Investors, and the terms of any Subordinated Debt Note must include the restrictions in § 702.404(a)(10); provided that no Subordinated Debt Note may be issued, sold, resold, pledged, or otherwise transferred to a member of the board of the Issuing Credit Union, any Senior Executive Officer of the Issuing Credit Union, or any Immediate Family Member of any such board member or Senior Executive Officer. Prior to the offer of any Subordinated Debt Note, the Issuing Credit Union must receive a signed, unambiguous certification from any potential investor of a Subordinated Debt Note. The certification must be in substantially the following form:

CERTIFICATE OF ACCREDITED INVESTOR STATUS

Except as may be indicated by the undersigned below, the undersigned is an accredited investor, as that term is defined in Regulation D under the Securities Act of 1933, as amended (the ''*Act*''). In order to demonstrate the basis on which it is representing its status as an accredited investor, the undersigned has checked one of the boxes below indicating that the undersigned is:

[ ] Any bank as defined in section 3(a)(2) of the Act, or any savings and loan association or other institution as defined in section 3(a)(5)(A) of the Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934; any investment adviser registered pursuant to section 203 of the Investment Advisers Act of 1940 or registered pursuant to the laws of a state; any investment adviser relying on the exemption from registering with the Securities and Exchange Commission under section 203(l) or (m) of the Investment Advisers Act of 1940; any insurance company as defined in section 2(a)(13) of the Act; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that act; any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958; any Rural Business Investment Company as defined in section 384A of the Consolidated Farm and Rural Development Act; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees, if such plan has total assets in excess of $5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of $5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors; [ ] A private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940;

[ ] Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, partnership, or limited liability company, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000; [ ] Any natural person whose individual net worth, or joint net worth with that person's spouse or spousal equivalent, exceeds $1,000,000; (excluding the value of the person's primary residence). For the purposes of calculating joint net worth in this paragraph: joint net worth can be the aggregate net worth of the investor and spouse or spousal equivalent; assets need not be held jointly to be included in the calculation;

[ ] Any natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse or spousal equivalent in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year; [ ] A trust with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he or she is capable of evaluating the merits and risks of the prospective investment;

[ ] An entity in which all of the equity holders are accredited investors by virtue of their meeting one or more of the above standards;

[ ] Any entity, of a type not listed in paragraph (a)(1), (2), (3), (7), or (8) of 17 CFR 230.501(a), not formed for the specific purpose of acquiring the securities offered, owning investments in excess of $5,000,000;

[ ] Any natural person holding in good standing one or more professional certifications or designations or credentials from an accredited educational institution that the Securities and Exchange Commission has designated as qualifying an individual for accredited investor status;

[ ] Any natural person who is a ''knowledgeable employee,'' as defined in rule 3c5(a)(4) under the Investment Company Act of 1940 (17 CFR 270.3c-5(a)(4)), of the issuer of the securities being offered or sold where the issuer would be an investment company, as defined in section 3 of such act, but for the exclusion provided by either section 3(c)(1) or section 3(c)(7) of such act;

[ ] Any ''family office,'' as defined in rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940 (17 CFR 275.202(a)(11)(G)-1): (i) With assets under management in excess of $5,000,000, (ii) That is not formed for the specific purpose of acquiring the securities offered, and (iii) Whose prospective investment is directed by a person who has such knowledge and experience in financial and business matters

that such family office is capable of evaluating the merits and risks of the prospective investment; and

[ ] Any ''family client,'' as defined in rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940 (17 CFR 275.202(a)(11)(G)-1)), of a family office meeting the requirements in paragraph (a)(12) of § 275.202(a)(11)(G)-1 and whose prospective investment in the issuer is directed by such family office pursuant to paragraph (a)(12)(iii) of § 275.202(a)(11)(G)-1.

The undersigned understands that [NAME OF ISSUING CREDIT UNION] (the ''Credit Union'') is required to verify the undersigned's accredited investor status AND ELECTS TO DO ONE OF THE FOLLOWING:

[ ] Allow the Credit Union's representative to review the undersigned's tax returns for the two most recently completed years and provide a written representation of the undersigned's reasonable expectation of reaching the income level necessary to qualify as an accredited investor during the current year;

[ ] Allow the Credit Union's representative to: (1) obtain a written representation from the undersigned that states that all liabilities necessary to make a determination of net worth have been disclosed; and (2) review one or more of the following types of documentation dated within the past three months: bank statements, brokerage statements, tax assessments, appraisal reports as to assets, or a consumer report from a nationwide consumer reporting agency;

[ ] Provide the Credit Union with a written confirmation from one of the following persons or entities that such person or entity has taken reasonable steps to verify that the undersigned is an accredited investor within the prior three months and has determined that the undersigned is an accredited investor:

- A registered broker-dealer;
- An investment adviser registered with the Securities Exchange Commission;
- A licensed attorney who is in good standing under the laws of the jurisdictions in which such attorney is admitted to practice law; or
- A certified public accountant who is duly registered and in good standing under the laws of the place of such accountant's residence or principal office.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Accredited Investor Status effective as of _____, 20_____.

_____
Name of Investor

_____
[Name of Authorized Representative

_____
Title of Authorized Representative]

_____
Signature

_____
Address

_____
Address

_____
Phone Number

_____
Email Address

(d) *Use of trustees.* If using a trustee in connection with the offer, issuance, and sale of Subordinated Debt Notes, the trustee must meet the requirements set forth in the Trust Indenture Act of 1939, as amended, including requirements for qualification set forth in section 310 thereof; any rules related to such act in 17 CFR parts 260, 261, and 269; and any applicable state law.

(e) *Offers, issuances, and sales of Subordinated Debt Notes.* Offers issuances, and sales of Subordinated Debt Notes are required to be made in accordance with the following requirements:

(1) *Application to offer, issue, and sell at offices of Issuing Credit Union.* If the Issuing Credit Union intends to offer and sell Subordinated Debt Notes at one or more of its offices, the Issuing Credit Union must first apply in writing to the Appropriate Supervision Office indicating that it intends to offer, issue, and sell Subordinated Debt Notes at one or more of its offices. The application must include, at a minimum, the physical locations of such offices and a description of how the Issuing Credit Union will comply with the requirements of this paragraph (e);

(2) *Decision on application.* Within 60 calendar days (which may be extended by the Appropriate Supervision Office) after the date of receipt of a complete application described in paragraph (e)(1) of this section, the Appropriate Supervision Office will provide the Issuing Credit Union with a written determination on its application to conduct offering and sales activity from its office(s). Any denial of an Issuing Credit Union's application under this section will include the reasons for such denial;

(3) *Commissions, bonuses, or comparable payments.* In connection with any offering and sale of Subordinated Debt Notes (whether or not conducted at offices of the Issuing Credit Union), an Issuing Credit Union shall not pay, directly or indirectly, any commissions, bonuses, or comparable payments to any employee of the Issuing Credit Union or any affiliated Credit Union Service Organizations (CUSOs) assisting with the offer, issuance, and sale of such Subordinated Debt Notes, or to any other person in connection with the offer, issuance, and sale of Subordinated Debt Notes; except that compensation and commissions consistent with industry norms may be paid to securities personnel of registered broker-dealers as otherwise permitted by applicable law;

(4) *Issuances by tellers.* No offers or sales may be made by tellers at the teller counter of any Issuing Credit Union, or by comparable persons at comparable locations;

(5) *Permissible issuing personnel.* In connection with an offering or sale of Subordinated Debt Notes (whether or not conducted at offices of the Issuing Credit Union), such activity may be conducted only by regular, full-time employees of the Issuing Credit Union or by securities personnel who are subject to supervision by a registered broker-dealer, which securities personnel may be employees of the Issuing Credit Union's affiliated CUSO that is assisting the Issuing Credit Union with the offer, issuance, and sale of the Subordinated Debt Notes;

(6) *Issuance practices, advertisements, and other literature used in connection with the offer and sale of Subordinated Debt Notes.* In connection with an offering or sale of Subordinated Debt Notes (whether or not conducted at offices of the Issuing Credit Union), issuance practices, advertisements, and other issuance literature used in connection with offers and issuances of Subordinated Debt Notes by Issuing Credit Unions or any affiliated CUSOs assisting with the offer and issuance of such Subordinated Debt Notes shall be subject to the requirements of this subpart; and

(7) *Office of an Issuing Credit Union.* For purposes of this paragraph (e), an ''office'' of an Issuing Credit Union means any premises used by the Issuing Credit Union that is identified to the public through advertising or signage using the Issuing Credit Union's name, trade name, or logo.

(f) *Securities laws.* An Issuing Credit Union must comply with all applicable Federal and state securities laws.

(g) *Resales.* All resales of Subordinated Debt Notes issued by an Issuing Credit Union by holders of such Subordinated Debt Notes must be made pursuant to 17 CFR 230.144 (Rule 144 under the Securities Act of 1933, as amended) (other than paragraphs (c), (e), (f), (g) and (h) of such Rule), 17 CFR 230.144A (Rule 144A under the Securities Act of 1933, as amended), or another exemption from registration under the Securities Act of 1933, as amended. Subordinated Debt Notes must include the restrictions on resales in § 702.404(a)(10).

§ 702.407 Discounting of amount treated as Regulatory Capital.

The amount of outstanding Subordinated Debt that may be treated as Regulatory Capital shall reduce by 20 percent per annum of the initial aggregate principal amount of the applicable Subordinated Debt (as

reduced by prepayments or amounts extinguished to cover a deficit under § 702.404(a)(6)), as required by the following schedule:

TABLE 1 TO § 720.407

Remaining maturity	Balance treated as regulatory capital %
Four to less than five years	80
Three to less than four years	60
Two to less than three years	40
One to less than two years	20
Less than one year	0

§ 702.408 Preapproval to issue Subordinated Debt.

(a) *Scope.* This section requires all credit unions to receive written preapproval from the NCUA before issuing Subordinated Debt. Procedures related specifically to applications from federally insured, state-chartered credit unions are contained in § 702.409. A credit union seeking approval to offer and sell Subordinated Debt at one or more of its offices must also follow the application procedures in § 702.406(e). All approvals under this section are subject to the expiration limits specified in paragraph (k) of this section.

(b) *Initial application to issue Subordinated Debt.* A credit union requesting approval to issue Subordinated Debt must first submit an application to the Appropriate Supervision Office that, at a minimum, includes:

(1) A statement indicating how the credit union qualifies to issue Subordinated Debt given the eligibility requirements of § 702.403 with additional supporting analysis if anticipating to meet the requirements of a LICU or complex credit union within 24 months after issuance of the Subordinated Debt;

(2) The maximum aggregate principal amount of Subordinated Debt Notes and the maximum number of discrete issuances of Subordinated Debt Notes that the credit union is proposing to issue within the period allowed under paragraph (k) of this section;

(3) The estimated number of investors and the status of such investors (Natural Person Accredited Investors and/or Entity Accredited Investors) to whom the credit union intends to offer and sell the Subordinated Debt Notes;

(4) A statement identifying any outstanding Subordinated Debt or Grandfathered Secondary Capital previously issued by the credit union;

(5) A copy of the credit union's strategic plan, business plan, and budget, and an explanation of how the credit union intends to use the Subordinated Debt in conformity with those plans;

(6) An analysis of how the credit union will provide for liquidity to repay the Subordinated Debt upon maturity of the Subordinated Debt;

(7) Pro Forma Financial Statements (balance sheet, income statement, and statement of cash flows), including any off-balance sheet items, covering at least two years. Analytical support for key assumptions and key assumption changes must be included in the application. Key assumptions include, but are not limited to, interest rate, liquidity, and credit loss scenarios;

(8) A statement indicating how the credit union will use the proceeds from the issuance and sale of the Subordinated Debt;

(9) A statement identifying the governing law specified in the Subordinated Debt Notes and the documents pursuant to which the Subordinated Debt Notes will be issued;

(10) A draft written policy governing the offer, and issuance, and sale of the Subordinated Debt, developed in consultation with Qualified Counsel, which, at a minimum, addresses:

(i) Compliance with all applicable Federal and state securities laws and regulations;

(ii) Compliance with applicable securities laws related to communications with investors and potential investors, including, but not limited to: Who may communicate with investors and potential investors; what information may be provided to investors and potential investors; ongoing disclosures to investors; who will review and ensure the accuracy of the information provided to investors and potential investors; and to whom information will be provided;

(iii) Compliance with any laws that may require registration of credit union employees as broker-dealers; and

(iv) Any use of outside agents, including broker-dealers, to assist in the marketing and issuance of Subordinated Debt, and any limitations on such use;

(11) A schedule that provides an itemized statement of all expenses incurred or expected to be incurred by the credit union in connection with the offer, issuance, and sale of the Subordinated Debt Notes to which the initial application relates, other than underwriting discounts and commissions or similar compensation payable to broker-dealers acting as placement agents. The schedule must include, as applicable, fees and expenses of counsel, auditors, any trustee or issuing and paying agent or any transfer agent, and printing and engraving expenses. If the amounts of any items are not known at the time of filing of the initial application, the credit union must provide estimates, clearly identified as such;

(12) In the case of a new credit union, a statement that it is subject to either an approved initial business plan or revised business plan, as required by this part, and how the proposed Subordinated Debt would conform with the approved plan. Unless the new credit union has a LICU designation pursuant to § 701.34 of this chapter, it must also include a plan for replacing the Subordinated Debt with Retained Earnings before the credit union ceases to meet the definition of new credit union in § 702.2;

(13) A statement describing any investments the credit union has in the Subordinated Debt of any other credit union, and the manner in which the credit union acquired such Subordinated Debt, including through a merger or other consolidation;

(14) A signature page signed by the credit union's principal executive officer, principal financial officer or principal accounting officer, and a majority 'of the members of its board of directors. Amendments to an initial application must be signed and filed with the NCUA in the same manner as the initial application; and

(15) Any additional information requested in writing by the Appropriate Supervision Office.

(c) *Decision on initial application.* Upon receiving an initial application submitted under this paragraph (c) and any additional information requested in writing by the Appropriate Supervision Office, the Appropriate Supervision Office will evaluate, at a minimum, the credit union's compliance with this subpart and all other NCUA regulations in this chapter, the credit union's ability to manage and safely offer, issue, and sell the proposed Subordinated Debt, the safety and soundness of the proposed use of the Subordinated Debt, the overall condition of the credit union, and any other factors the Appropriate Supervision Office determines are relevant.

(1) *Written determination.* Within 60 calendar days (which may be extended by the Appropriate Supervision Office) after the date of receipt of a complete application, the Appropriate Supervision Office will provide the credit union with a written determination on its application. In the case of a full or partial denial, or conditional approval under paragraph (c)(2) of this section, the written decision will state the reasons for the denial or conditional approval.

(2) *Conditions of approval.* Any approval granted by an Appropriate Supervision Office under this section may include one or more of the following conditions:

(i) Approval of an aggregate principal amount of Subordinated Debt that is lower than what the credit union requested;

(ii) Any applicable minimum level of net worth that the credit union must maintain while the Subordinated Debt Notes are outstanding;

(iii) Approved uses of the Subordinated Debt; and

(iv) Any other limitations or conditions the Appropriate Supervision Office deems necessary to protect the NCUSIF.

(d) *Offering Document.* Following receipt of written approval of its initial application, an Issuing Credit Union must prepare an Offering Document for each issuance of Subordinated Debt Notes. In addition, as required in paragraph (f) of this section, an Issuing Credit Union that intends to offer Subordinated Debt Notes to any Natural Person Accredited Investors must have the related Offering Document declared ''approved for use'' by the NCUA before its first use. At a reasonable time prior to any issuance and sale of Subordinated Debt Notes, the Issuing Credit Union must provide each investor with an Offering Document as described in this section. All Offering Documents must be filed with the NCUA within two business days after their respective first use.

(e) *Requirements for all Offering Documents*—(1) *Minimum information required in an Offering Document.* An Offering Document must, at a minimum, include the following information:

(i) The name of the Issuing Credit Union and the address of its principal executive office;

(ii) The initial principal amount of the Subordinated Debt being issued;

(iii) The name(s) of any underwriter(s) or placement agents being used for the issuance;

(iv) A description of the material risk factors associated with the purchase of the Subordinated Debt Notes, including any special or distinctive characteristics of the Issuing Credit Union's business, field of membership, or geographic location that are reasonably likely to have a material impact on the Issuing Credit Union's future financial performance;

(v) The disclosures described in § 702.405 and such additional material information, if any, as may be necessary to make the required disclosures, in the light of the circumstances under which they are made, not misleading;

(vi) Provisions related to the interest, principal, payment, maturity, and prepayment of the Subordinated Debt Notes;

(vii) All material affirmative and negative covenants that may or will be included in the Subordinated Debt Note, including, but not limited to, the covenants discussed in this subpart;

(viii) Any legends required by applicable state law; and

(ix) The following legend, displayed on the cover page in prominent type or in another manner:

None of the Securities and Exchange Commission (the ''SEC''), any state securities commission or the National Credit Union Administration has passed upon the merits of, or given its approval of, the purchase of any Subordinated Debt Notes offered or the terms of the offering, or passed on the accuracy or completeness of any Offering Document or other materials used in connection with the offer, issuance, and sale of the Subordinated Debt Notes. Any representation to the contrary is unlawful. These Subordinated Debt Notes have not been registered under the Securities Act of 1933, as amended (the ''Act'') and are being offered and sold to [an Entity Accredited Investor][an Accredited Investor] (as defined in 12 CFR 702.402) pursuant to an exemption from registration under the Act; however, neither the SEC nor the NCUA has made an independent determination that the offer and issuance of the Subordinated Debt Notes are exempt from registration.

(2) *Legibility requirements.* An Issuing Credit Union's Offering Document must comply with the following legibility requirements:

(i) Information in the Offering Document must be presented in a clear, concise, and understandable manner, incorporating plain English principles. The body of all printed Offering Documents shall be in type at least as large and as legible as 10-point type. To the extent necessary for convenient presentation, however, financial statements and other tabular data, including tabular data in notes, may be in type at least as large and as legible as 8-point type. Repetition of information should be avoided. Cross-referencing of information within the document is permitted; and

(ii) Where an Offering Document is distributed through an electronic medium, the Issuing Credit Union may satisfy legibility requirements applicable to printed documents, such as paper size, type size and font, bold-face type, italics and red ink, by presenting all required information in a format readily communicated to offerees and, where indicated, in a manner reasonably calculated to draw the attention of offerees to specific information.

(f) *Offering Documents approved for use in offerings of Subordinated Debt to any Natural Person Accredited Investors*—(1) *Filing of a Draft Offering Document.* An Issuing Credit Union that intends to offer Subordinated Debt Notes to any Natural Person Accredited Investors must file a draft Offering Document with the NCUA and have such draft Offering Document declared ''approved for use'' by the NCUA before its first use.

(i) *Request for additional information, clarifications, or amendments.* Prior to declaring any Offering Document ''approved for use,'' the NCUA may ask questions, request clarifications, or direct the Issuing Credit Union to amend certain sections of the draft Offering Document. The NCUA will make any such requests in writing.

(ii) *Written determination.* Within 60 calendar days (which may be extended by the NCUA) after the date of receipt of each of the initial filing and each filing of additional information, clarifications, or amendments requested by the NCUA under paragraph (f)(1)(i) of this section, the NCUA will provide the Issuing Credit Union with a written determination on the applicable filing. The written determination will include any requests for additional information, clarifications, or amendments, or a statement that the Offering Document is ''approved for use.''

(2) *Filing of a final Offering Document.* At such time as the NCUA

declares an Offering Document ''approved for use'' in accordance with paragraph (f)(1)(ii) of this section, the Issuing Credit Union may then use that Offering Document in the offer and sale of the Subordinated Debt Notes. The Issuing Credit Union must file a copy of each of its Offering Documents with the NCUA within two business days after their respective first use.

(g) *Filing of an Offering Document for offerings of Subordinated Debt exclusively to Entity Accredited Investors.* An Issuing Credit Union that is offering Subordinated Debt exclusively to Entity Accredited Investors is not required to have its Offering Document ''approved for use'' by the NCUA under paragraph (f) of this section before using it to offer and sell the Subordinated Debt Notes. As described in this section, however, the Issuing Credit Union must file a copy of each of its Offering Documents with the NCUA within two business days after their respective first use.

(h) *Material changes to any initial application or Offering Document*—(1) *Reapproval of initial application.* If any material event arises or material change in fact occurs after the approval of the initial application by the NCUA, but prior to the completion of the offer and sale of the related Subordinated Debt Notes, then no person shall offer or sell Subordinated Debt Notes to any other person until an amendment to the Offering Document reflecting the event or change has been filed with and approved by the NCUA.

(2) *Reapproval of Offering Document.* If an Offering Document must be approved for use under paragraph (f) of this section, and any event arises or change in fact occurs after the approval for use of any Offering Document, and that event or change in fact, individually or in the aggregate, results in the Offering Document containing any untrue statement of material fact, or omitting to state a material fact necessary in order to make statements made in the Offering Document not misleading in light of the circumstances under which they were made, then no person shall offer or sell Subordinated Debt Notes to any other person until an amendment reflecting the event or change has been filed with and ''approved for use'' by the NCUA.

(3) *Failure to request reapproval.* If an Issuing Credit Union fails to comply with paragraph (h)(1) or (2) of this section, the NCUA may, at its discretion, exercise the full range of administrative remedies available under the FCU Act, including:

(i) Prohibiting the Issuing Credit Union from issuing any additional Subordinated Debt for a specified period; and/or

(ii) Determining not to treat the Subordinated Debt as Regulatory Capital.

(i) *Notification.* Not later than 10 business days after the closing of a Subordinated Debt Note issuance and sale, the Issuing Credit Union must submit to the Appropriate Supervision Office:

(1) A copy of each executed Subordinated Debt Note;

(2) A copy of each executed purchase agreement, if any;

(3) Any indenture or other transaction document used to issue the Subordinated Debt Notes;

(4) Copies of signed certificates of Accredited Investor status, in a form similar to that in § 702.406(c), from all investors;

(5) All documentation provided to investors related to the offer and sale of the Subordinated Debt Note (other than any Offering Document that was previously filed with the NCUA); and

(6) Any other material documents governing the issuance, sale or administration of the Subordinated Debt Notes.

(j) *Resubmissions.* An Issuing Credit Union that receives any adverse written determination from the Appropriate Supervision Office with respect to the approval of its initial application or any amendment thereto or, if applicable, the approval for use of an Offering Document or any amendment thereto, may cure any reasons noted in the written determination and refile under the requirements of this section. This paragraph (j) does not prohibit an Issuing Credit Union from appealing an Appropriate Supervision Office's decision under subpart A of part 746 of this chapter.

(k) *Expiration of authority to issue Subordinated Debt.* (1) Any approvals to issue Subordinated Debt Notes under this section expire two years from the later of the date the Issuing Credit Union receives:

(i) Approval of its initial application, if the Issuing Credit Union is offering Subordinated Notes exclusively to Entity Accredited Investors; or

(ii) The initial approval for use of its Offering Document, if the Issuing Credit Union is offering Subordinated Debt Notes to any Natural Person Accredited Investors.

(2) Failure to issue all or part of the maximum aggregate principal amount of Subordinated Debt Notes approved in the initial application process within the applicable period specified in paragraph (k) of this section will result in the expiration of the NCUA's approval. An Issuing Credit Union may file a written extension request with the Appropriate Supervision Office. The Issuing Credit Union must demonstrate good cause for any extension(s), and must file the request at least 30 calendar days before the expiration of the applicable period specified in paragraph (k) of this section or any extensions granted under paragraph (k) of this section. In any such written application, the Issuing Credit Union must address whether any such extension poses any material securities law implications.

(l) *Filing requirements and inspection of documents.* (1) Except as otherwise provided in this section, all initial applications, Offering Documents, amendments, notices, or other documents must be filed with the NCUA electronically. The NCUA will publish on its website, *http://www.NCUA.gov,* the web address for electronic filings. Documents may be signed electronically using the signature provision in 17 CFR 230.402 (Rule 402 under the Securities Act of 1933, as amended).

(2) Provided the Issuing Credit Union filing the document has complied with all requirements regarding the filing in this section, the date of filing of the document is the date the NCUA receives the filing. An electronic filing that is submitted on a business day by direct transmission commencing on or before 5:30 p.m. Eastern Standard or Daylight Savings Time, whichever is then currently in effect, would be deemed received by the NCUA on the same business day. An electronic filing that is submitted by direct transmission commencing after 5:30 p.m. Eastern Standard or Daylight Savings Time, whichever is then currently in effect, or on a Saturday, Sunday, or Federal holiday, would be deemed received by the NCUA on the next business day. If an electronic filer in good faith attempts to file a document with the NCUA in a timely manner, but the filing is delayed due to technical difficulties beyond the electronic filer's control, the electronic filer may request that the NCUA adjust the filing date of such document. The NCUA may grant the request if it appears that such adjustment is appropriate and consistent with the public interest and the protection of investors.

(3) If an Issuing Credit Union experiences unanticipated technical difficulties preventing the timely preparation and submission of an electronic filing, the Issuing Credit Union may, upon notice to the Appropriate Supervision Office, file the subject filing in paper format no later

than one business day after the date on which the filing was to be made.

(4) Any filing of amendments or supplements to an Offering Document must include two copies, one of which must be marked to indicate clearly and precisely, by underlining or in some other conspicuous manner, the changes made from the previously filed Offering Document.

(m) *Filing fees.* (1) The NCUA may require filing fees to accompany certain filings made under this subpart before it will accept those filings. If the NCUA requires the aforementioned filing fee, the NCUA will publish an applicable fee schedule on its website at *http://www.NCUA.gov.*

(2) Filing fees must be paid to the NCUA by electronic transfer.

§ 702.409 Preapproval for federally insured, state-chartered credit unions to issue Subordinated Debt.

(a) A federally insured, state-chartered credit union is required to submit the information required under § 702.408 and, if applicable, paragraph (b) of this section to both the Appropriate Supervision Office and its state supervisory authority. The Appropriate Supervision Office will issue decisions approving a federally insured, state-chartered credit union's application only after obtaining the concurrence of the federally insured, state-chartered credit union's state supervisory authority. The NCUA will notify a federally insured, state-chartered credit union's state supervisory authority before issuing a decision to ''approve for use'' a federally insured, state-chartered credit union's Offering Document and any amendments thereto, under § 702.408, if applicable.

(b) If the Appropriate Supervision Office has reason to believe that an issuance by a federally insured, state-chartered credit union under this subpart could subject that federally insured, state-chartered credit union to Federal income taxation, the Appropriate Supervision Office may require the federally insured, state-chartered credit union to provide:

(1) A written legal opinion, satisfactory to the NCUA, from nationally recognized tax counsel or letter from the Internal Revenue Service indicating whether the proposed Subordinated Debt would be classified as capital stock for Federal income tax purposes and, if so, describing any material impact of Federal income taxes on the federally insured, state-chartered credit union's financial condition; or

(2) A Pro Forma Financial Statement (balance sheet, income statement, and statement of cash flows), covering a minimum of two years, that shows the impact of the federally insured, state-chartered credit union being subject to Federal income tax.

(c) If the Appropriate Supervision Office requires additional information from a federally insured, state-chartered credit union under paragraph (b) of this section, the federally insured, state-chartered credit union may determine, in its sole discretion, whether the information it provides is in the form described in paragraph (b)(1) or (2) of this section.

§ 702.410 Interest payments on Subordinated Debt.

(a) *Requirements for interest payments.* An Issuing Credit Union is prohibited from paying interest on Subordinated Debt in accordance with § 702.109.

(b) *Accrual of interest.* Notwithstanding nonpayment pursuant to paragraph (a) of this section, interest on the Subordinated Debt may continue to accrue according to terms provided for in the Subordinated Debt Note and as otherwise permitted in this subpart.

(c) *Interest safe harbor.* Except as otherwise provided in this section, the NCUA shall not impose a discretionary supervisory action that requires the Issuing Credit Union to suspend interest with respect to the Subordinated Debt if:

(1) The issuance and sale of the Subordinated Debt complies with all requirements of this subpart;

(2) The Subordinated Debt is issued and sold in an arms-length, bona fide transaction;

(3) The Subordinated Debt was issued and sold in the ordinary course of business, with no intent to hinder, delay, or defraud the Issuing Credit Union or its creditors; and

(4) The Subordinated Debt was issued and sold for adequate consideration in U.S. dollars.

(d) *Authority, rights, and powers of the NCUA and the NCUA Board.* This section does not waive, limit, or otherwise affect the authority, rights, or powers of the NCUA or the NCUA Board in any capacity, including the NCUA Board as conservator or liquidating agent, to take any action or to exercise any power not specifically mentioned, including but not limited to any rights, powers, or remedies of the NCUA Board as conservator or liquidating agent regarding transfers or other conveyances taken in contemplation of the Issuing Credit Union's insolvency or with the intent to hinder, delay, or defraud the Issuing Credit Union or the creditors of such Issuing Credit Union, or that is fraudulent under applicable law.

§ 702.411 Prior written approval to prepay Subordinated Debt.

(a) *Prepayment option.* An Issuing Credit Union may include in the terms of its Subordinated Debt an option that allows the Issuing Credit Union to prepay the Subordinated Debt in whole or in part prior to maturity, provided, however, that the Issuing Credit Union is required to:

(1) Clearly disclose the requirements of this section in the Subordinated Debt Note; and

(2) Obtain approval under paragraph (b) of this section before exercising a prepayment option.

(b) *Prepayment application.* Before an Issuing Credit Union can, in whole or in part, prepay Subordinated Debt prior to maturity, the Issuing Credit Union must first submit to the Appropriate Supervision Office an application that must include, at a minimum, the information required in paragraph (d) of this section.

(c) *Federally insured, state-chartered credit union prepayment applications.* Before a federally insured, state-chartered credit union may submit an application for prepayment to the Appropriate Supervision Office, it must obtain written approval from its state supervisory authority to prepay the Subordinated Debt it is proposing to prepay. A federally insured, state-chartered credit union must provide evidence of such approval as part of its application to the Appropriate Supervision Office.

(d) *Application contents.* An Issuing Credit Union's application to prepay Subordinated Debt must include, at a minimum, the following:

(1) A copy of the Subordinated Debt Note and any agreement(s) reflecting the terms and conditions of the Subordinated Debt the Issuing Credit Union is proposing to prepay;

(2) An explanation why the Issuing Credit Union believes it still would hold an amount of capital commensurate with its risk exposure notwithstanding the proposed prepayment or a description of the replacement Subordinated Debt, including the amount of such instrument, and the time frame for issuance, the Issuing Credit Union is proposing to use to replace the prepaid Subordinated Debt; and

(3) Any additional information the Appropriate Supervision Office requests.

(e) *Decision on application to prepay.* (1) Within 45 calendar days (which may be extended by the Appropriate Supervision Office) after the date of receipt of a complete application, the Appropriate Supervision Office will

provide the Issuing Credit Union with a written determination on its application. In the case of a full or partial denial, including a conditional approval under paragraph (e)(2) of this section, the written decision will state the reasons for the denial or conditional approval.

(2) The written determination from the Appropriate Supervision Office may approve the Issuing Credit Union's request, approve the Issuing Credit Union's request with conditions, or deny the Issuing Credit Union's request. In the case of a denial or conditional approval, the Appropriate Supervision Office will provide the Issuing Credit Union with a description of why it denied the Issuing Credit Union's request or imposed conditions on the approval of such request.

(3) If the Issuing Credit Union proposes or the NCUA requires the Issuing Credit Union to replace the Subordinated Debt, the Issuing Credit Union must receive affirmative approval under this subpart and must issue and sell the replacement instrument prior to or concurrently with prepaying the Subordinated Debt.

(f) *Resubmissions.* An Issuing Credit Union that receives an adverse written determination on its application to prepay, in whole or in part, may cure any deficiencies noted in the Appropriate Supervision Office's written determination and reapply under the requirements of this section. This paragraph (f) does not prohibit an Issuing Credit Union from appealing the Appropriate Supervision Office's adverse decision under subpart A of part 746 of this chapter.

§ 702.412 Effect of a merger or dissolution on the treatment of Subordinated Debt as Regulatory Capital.

(a) In the event of a merger of an Issuing Credit Union into or the assumption of its Subordinated Debt by another federally insured credit union, the Subordinated Debt will be treated as Regulatory Capital only to the extent that the resulting credit union is either a LICU, a complex credit union, and/or a new credit union.

(b) In the event the resulting credit union is not a LICU, a complex credit union, or a new credit union, the Subordinated Debt of the merging credit union can either be:

(1) If permitted by the terms of the Subordinated Debt Note, repaid by the resulting credit union upon approval by the NCUA under § 702.411; or

(2) Continue to be held by the resulting credit union as Subordinated Debt, but will not be classified as Regulatory Capital under this subpart, unless the resulting credit union meets the eligibility requirements of § 702.403.

(c) In the event of a voluntary dissolution of an Issuing Credit Union that has outstanding Subordinated Debt, the Subordinated Debt may be repaid in full according to 12 CFR part 710, subject to the requirements in § 702.411.

§ 702.413 Repudiation safe harbor.

(a) The NCUA Board as conservator for a federally insured credit union, or its lawfully appointed designee, shall not exercise its repudiation authorities under 12 U.S.C. 1787(c) with respect to Subordinated Debt if:

(1) The issuance and sale of the Subordinated Debt complies with all requirements of this subpart;

(2) The Subordinated Debt was issued and sold in an arms-length, bona fide transaction;

(3) The Subordinated Debt was issued and sold in the ordinary course of business, with no intent to hinder, delay, or defraud the Issuing Credit Union or its creditors; and

(4) The Subordinated Debt was issued and sold for adequate consideration in U.S. dollars.

(b) This section does not authorize the attachment of any involuntary lien upon the property of either the NCUA Board as conservator or liquidating agent or its lawfully appointed designee. Nor does this section waive, limit, or otherwise affect the authority, rights, or powers of the NCUA or the NCUA Board in any capacity to take any action or to exercise any power not specifically mentioned, including but not limited to any rights, powers, or remedies of the NCUA Board as conservator or liquidating agent (or its lawfully appointed designee) regarding transfers or other conveyances taken in contemplation of the Issuing Credit Union's insolvency or with the intent to hinder, delay or defraud the Issuing Credit Union or the creditors of such Issuing Credit Union, or that is fraudulent under applicable law.

§ 702.414 Regulations governing Grandfathered Secondary Capital.

This section recodifies the requirements from 12 CFR 701.34(b), (c), and (d) that were in effect as of January 1, 2021, with minor modifications. The terminology used in this section is specific to this section. All secondary capital issued under 12 CFR 701.34 (revised as of January 1, 2021) before January 1, 2022, or, in the case of a federally insured, state-chartered credit union, § 741.204(c) of this chapter, that is referred to elsewhere in this subpart as ''Grandfathered Secondary Capital,'' is subject to the requirements set forth in this section.

(a) Secondary capital is subject to the following conditions:

(1) *Secondary capital plan.* A credit union that has Grandfathered Secondary Capital under this section must have a written, NCUA-approved ''Secondary Capital Plan'' that, at a minimum:

(i) States the maximum aggregate amount of uninsured secondary capital the LICU plans to accept;

(ii) Identifies the purpose for which the aggregate secondary capital will be used, and how it will be repaid;

(iii) Explains how the LICU will provide for liquidity to repay secondary capital upon maturity of the accounts;

(iv) Demonstrates that the planned uses of secondary capital conform to the LICU's strategic plan, business plan, and budget; and

(v) Includes supporting pro forma financial statements, including any off-balance sheet items, covering a minimum of the next two years.

(2) *Issuances not completed before January 1, 2022.* Any issuances of secondary capital not completed by January 1, 2022, are, as of January 1, 2022, subject to the requirements applicable to Subordinated Debt discussed elsewhere in this subpart.

(3) *Nonshare account.* The secondary capital account is established as an uninsured secondary capital account or other form of non-share account.

(4) *Minimum maturity.* The maturity of the secondary capital account is a minimum of five years.

(5) *Uninsured account.* The secondary capital account is not insured by the National Credit Union Share Insurance Fund or any governmental or private entity.

(6) *Subordination of claim.* The secondary capital account investor's claim against the LICU is subordinate to all other claims including those of shareholders, creditors and the National Credit Union Share Insurance Fund.

(7) *Availability to cover losses.* Funds deposited into a secondary capital account, including interest accrued and paid into the secondary capital account, are available to cover operating losses realized by the LICU that exceed its net available reserves (exclusive of secondary capital and allowance accounts for loan and lease losses), and to the extent funds are so used, the LICU must not restore or replenish the account under any circumstances. The LICU may, in lieu of paying interest into the secondary capital account, pay accrued interest directly to the investor or into a separate account from which the secondary capital investor may make withdrawals. Losses must be distributed pro-rata among all secondary capital accounts held by the LICU at the

time the losses are realized. In instances where a LICU accepted secondary capital from the United States Government or any of its subdivisions under the Community Development Capital Initiative of 2010 (''CDCI secondary capital'') and matching funds were required under the Initiative and are on deposit in the form of secondary capital at the time a loss is realized, a LICU must apply either of the following pro-rata loss distribution procedures to its secondary capital accounts with respect to the loss:

(i) If not inconsistent with any agreements governing other secondary capital on deposit at the time a loss is realized, the CDCI secondary capital may be excluded from the calculation of the pro-rata loss distribution until all of its matching secondary capital has been depleted, thereby causing the CDCI secondary capital to be held as senior to all other secondary capital until its matching secondary capital is exhausted. The CDCI secondary capital should be included in the calculation of the pro-rata loss distribution and is available to cover the loss only after all of its matching secondary capital has been depleted.

(ii) Regardless of any agreements applicable to other secondary capital, the CDCI secondary capital and its matching secondary capital may be considered a single account for purposes of determining a pro-rata share of the loss and the amount determined as the pro-rata share for the combined account must first be applied to the matching secondary capital account, thereby causing the CDCI secondary capital to be held as senior to its matching secondary capital. The CDCI secondary capital is available to cover the loss only after all of its matching secondary capital has been depleted.

(8) *Security.* The secondary capital account may not be pledged or provided by the account investor as security on a loan or other obligation with the LICU or any other party.

(9) *Merger or dissolution.* In the event of merger or other voluntary dissolution of the LICU, other than merger into another LICU, the secondary capital accounts will be closed and paid out to the account investor to the extent they are not needed to cover losses at the time of merger or dissolution.

(10) *Contract agreement.* A secondary capital account contract agreement must have been executed by an authorized representative of the account investor and of the LICU reflecting the terms and conditions mandated by this section and any other terms and conditions not inconsistent with this section.

(11) *Disclosure and acknowledgement.* An authorized representative of the LICU and of the secondary capital account investor each must have executed a ''Disclosure and Acknowledgment'' as set forth in the appendix to this subpart at the time of entering into the account agreement. The LICU must retain an original of the account agreement and the ''Disclosure and Acknowledgment'' for the term of the agreement, and a copy must be provided to the account investor.

(12) *Prompt corrective action.* As provided in this part, the NCUA may prohibit a LICU as classified ''critically undercapitalized'' or, if ''new,'' as ''moderately capitalized'', ''marginally capitalized'', ''minimally capitalized'' or ''uncapitalized,'' as the case may be, from paying principal, dividends, or interest on its uninsured secondary capital accounts established after August 7, 2000, except that unpaid dividends or interest will continue to accrue under the terms of the account to the extent permitted by law.

(b) *Accounting treatment; Recognition of net worth value of accounts*—(1) *Debt.* A LICU that issued secondary capital accounts pursuant to paragraph (a) of this section must record the funds on its balance sheet as a debt titled ''uninsured secondary capital account.''

(2) *Schedule for recognizing net worth value.* The LICU's reflection of the net worth value of the accounts in its financial statement may never exceed the full balance of the secondary capital on deposit after any early redemptions and losses. For accounts with remaining maturities of less than five years, the LICU must reflect the net worth value of the accounts in its financial statement in accordance with the lesser of:

(i) The remaining balance of the accounts after any redemptions and losses; or

(ii) The amounts calculated based on the following schedule:

TABLE 1 TO PARAGRAPH (b)(2)(ii)

Remaining maturity	Net worth value of original balance (percent)
Four to less than five years	80
Three to less than four years	60
Two to less than three years	40
One to less than two years	20
Less than one year	0

(3) *Financial statement.* The LICU must reflect the full amount of the secondary capital on deposit in a footnote to its financial statement.

(c) *Redemption of secondary capital.* With the written approval of NCUA, secondary capital that is not recognized as net worth under paragraph (b)(2) of this section (''discounted secondary capital'' re-categorized as Subordinated Debt) may be redeemed according to the remaining maturity schedule in paragraph (c)(3) of this section.

(1) *Request to redeem secondary capital.* A request for approval to redeem discounted secondary capital may be submitted in writing at any time, must specify the increment(s) to be redeemed and the schedule for redeeming all or any part of each eligible increment, and must demonstrate to the satisfaction of NCUA that:

(i) The LICU will have a post-redemption net worth classification of at least ''adequately capitalized'' under this part;

(ii) The discounted secondary capital has been on deposit at least two years;

(iii) The discounted secondary capital will not be needed to cover losses prior to final maturity of the account;

(iv) The LICU's books and records are current and reconciled;

(v) The proposed redemption will not jeopardize other current sources of funding, if any, to the LICU; and

(vi) The request to redeem is authorized by resolution of the LICU's board of directors.

(2) *Decision on request.* A request to redeem discounted secondary capital may be granted in whole or in part. If a LICU is not notified within 45 days of receipt of a request for approval to redeem secondary capital that its request is either granted or denied, the LICU may proceed to redeem secondary capital accounts as proposed.

(3) *Schedule for redeeming secondary capital.*

TABLE 2 TO PARAGRAPH (c)(3)

Remaining maturity	Redemption limit as percent of original balance (%)
Four to less than five years	20
Three to less than four years	40
Two to less than three years	60
One to less than two years	80

(4) *Early redemption exception.* Subject to the written approval of NCUA obtained pursuant to the requirements of paragraphs (c)(1) and (2) of this section, a LICU can redeem all or part of secondary capital accepted from the United States Government or any of its subdivisions at any time after the

secondary capital has been on deposit for two years. If the secondary capital was accepted under conditions that required matching secondary capital from a source other than the Federal Government, the matching secondary capital may also be redeemed in the manner set forth in the preceding sentence. For purposes of obtaining NCUA's approval, all secondary capital a LICU accepts from the United States Government or any of its subdivisions, as well as its matching secondary capital, if any, is eligible for early redemption regardless of whether any part of the secondary capital has been discounted pursuant to paragraph (b)(2) of this section.

Appendix A to Subpart D of Part 702—Disclosure and Acknowledgement Form

A LICU that is authorized to accept uninsured secondary capital accounts and each investor in such an account must have executed and dated the following ''Disclosure and Acknowledgment'' form, a signed original of which must be retained by the credit union:

Disclosure and Acknowledgment

[Name of CU] and [Name of investor] hereby acknowledge and agree that [Name of investor] has committed [amount of funds] to a secondary capital account with [name of credit union] under the following terms and conditions:

1. *Term.* The funds committed to the secondary capital account are committed for a period of _y years.

2. *Redemption prior to maturity.* Subject to the conditions set forth in 12 CFR 702.414, the funds committed to the secondary capital account are redeemable prior to maturity only at the option of the LICU and only with the prior written approval of NCUA.

3. *Uninsured, non-share account.* The secondary capital account is not a share account and the funds committed to the secondary capital account are not insured by the National Credit Union Share Insurance Fund or any other governmental or private entity.

4. *Prepayment risk.* Redemption of U.S.C. prior to the account's original maturity date may expose the account investor to the risk of being unable to reinvest the repaid funds at the same rate of interest for the balance of the period remaining until the original maturity date. The investor acknowledges that it understands and assumes responsibility for prepayment risk associated with the [name of credit union]'s redemption of the investor's U.S.C. account prior to the original maturity date.

5. *Availability to cover losses.* The funds committed to the secondary capital account and any interest paid into the account may be used by [name of credit union] to cover any and all operating losses that exceed the credit union's net worth exclusive of allowance accounts for loan losses, and in the event the funds are so used, (name of credit union) will under no circumstances restore or replenish those funds to [name of institutional investor]. Dividends are not considered operating losses and are not eligible to be paid out of secondary capital.

6. *Accrued interest.* By initialing below, [name of credit union] and [name of institutional investor] agree that accrued interest will be:

__Paid into and become part of the secondary capital account;
__Paid directly to the investor;
__Paid into a separate account from which the investor may make withdrawals; or
__Any combination of the above provided the details are specified and agreed to in writing.

7. *Subordination of claims.* In the event of liquidation of [name of credit union], the funds committed to the secondary capital account will be subordinate to all other claims on the assets of the credit union, including claims of member shareholders, creditors and the National Credit Union Share Insurance Fund.

8. *Prompt Corrective Action.* Under certain net worth classifications (see 12 CFR 702.204(b)(11), 702.304(b) and 702.305(b), as the case may be), the NCUA may prohibit [name of credit union] from paying principal, dividends or interest on its uninsured secondary capital accounts established after August 7, 2000, except that unpaid dividends or interest will continue to accrue under the terms of the account to the extent permitted by law.

ACKNOWLEDGED AND AGREED TO this ____d day of [month and year] by:

_____
[name of investor's official]
[title of official]
[name of investor]
[address and phone number of investor]
[investor's tax identification number]

_____
[name of credit union official]
[title of official]

PART 709—INVOLUNTARY LIQUIDATION OF FEDERAL CREDIT UNIONS AND ADJUDICATION OF CREDITOR CLAIMS INVOLVING FEDERALLY INSURED CREDIT UNIONS IN LIQUIDATION

■ 15. The authority citation for part 709 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1767, 1786(h), 1786(t), and 1787(b)(4), 1788, 1789, 1789a.

■ 16. Amend § 709.5 by revising paragraph (b)(8) to read as follows:

§ 709.5 Payout priorities in involuntary liquidation.

* * * * *

(b) * * *

(8) Outstanding Subordinated Debt (as defined in part 702 of this chapter) or outstanding Grandfathered Secondary Capital (as defined in part 702 of this chapter); and

* * * * *

PART 741—REQUIREMENTS FOR INSURANCE

■ 17. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

■ 18. Amend § 741.204 by revising paragraph (c) and removing paragraph (d) to read as follows:

§ 741.204 Maximum public unit and nonmember accounts, and low-income designation.

* * * * *

(c) Follow the requirements of § 702.414 of this chapter for any Grandfathered Secondary Capital (as defined in part 702 of this chapter) issued before January 1, 2022.

■ 19. Add §§ 741.226 and 741.227 to read as follows:

§ 741.226 Subordinated Debt.

Any credit union that is insured, or that makes application for insurance, pursuant to title II of the Act must follow the requirements of subpart D of part 702 of this chapter before it may issue Subordinated Debt, as that term is defined in § 702.402 of this chapter, and to the extent not inconsistent with applicable state law and regulation.

§ 741.227 Loans to credit unions.

Any credit union that is insured pursuant to Title II of the Act must adhere to the requirements in § 701.25 of this chapter.

[FR Doc. 2020–28281 Filed 2–22–21; 8:45 am]
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FEDERAL REGISTER

Vol. 86 Tuesday,

No. 34 February 23, 2021

Part III

The President

Executive Order 14016—Revocation of Executive Order 13801

Federal Register
Vol. 86, No. 34
Tuesday, February 23, 2021

Presidential Documents

Title 3—

The President

Executive Order 14016 of February 17, 2021

Revocation of Executive Order 13801

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered that:

Section 1. *Revocation of Executive Order.* Executive Order 13801 of June 15, 2017 (Expanding Apprenticeships in America), is hereby revoked.

Sec. 2. *Implementation.* The Director of the Office of Management and Budget and the heads of executive departments and agencies shall promptly consider taking steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the Executive Order identified in section 1 of this order, as appropriate and consistent with applicable law, including the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* In addition, any personnel positions, committees, task forces, or other entities established pursuant to the Executive Order identified in section 1 of this order shall be abolished, as appropriate and consistent with applicable law.

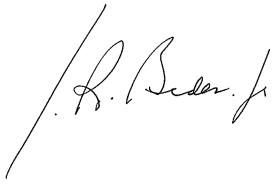
Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(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 in a manner 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,
February 17, 2021.

[FR Doc. 2021–03874
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