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Presidential Documents

Title 3—

The President

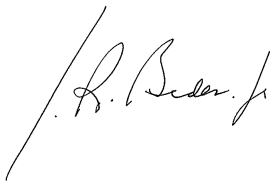
Notice of February 24, 2021

Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID–19) Pandemic

On March 13, 2020, by Proclamation 9994, the President declared a national emergency concerning the coronavirus disease 2019 (COVID–19) pandemic. The COVID–19 pandemic continues to cause significant risk to the public health and safety of the Nation.

For this reason, the national emergency declared on March 13, 2020, and beginning March 1, 2020, must continue in effect beyond March 1, 2021. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency declared in Proclamation 9994 concerning the COVID–19 pandemic.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
February 24, 2021.

[FR Doc. 2021–04173
Filed 2–25–21; 8:45 am]
Billing code 3295–F1–P

Presidential Documents

Notice of February 24, 2021

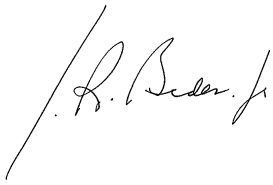
Continuation of the National Emergency With Respect to Cuba and of the Emergency Authority Relating to the Regulation of the Anchorage and Movement of Vessels

On March 1, 1996, by Proclamation 6867, a national emergency was declared to address the disturbance or threatened disturbance of international relations caused by the February 24, 1996, destruction by the Cuban government of two unarmed United States-registered, civilian aircraft in international airspace north of Cuba. On February 26, 2004, by Proclamation 7757, the national emergency was expanded to deny monetary and material support to the Cuban government. On February 24, 2016, by Proclamation 9398, and on February 22, 2018, by Proclamation 9699, the national emergency was further modified based on continued disturbances or threatened disturbances of the international relations of the United States related to Cuba. The Cuban government has not demonstrated that it will refrain from the use of excessive force against United States vessels or aircraft that may engage in memorial activities or peaceful protest north of Cuba.

Further, the unauthorized entry of any United States-registered vessel into Cuban territorial waters continues to be detrimental to the foreign policy of the United States because such entry could facilitate a mass migration from Cuba. It continues to be United States policy that a mass migration from Cuba would endanger United States national security by posing a disturbance or threatened disturbance of the international relations of the United States.

Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Cuba and the emergency authority relating to the regulation of the anchorage and movement of vessels set out in Proclamation 6867, as amended by Proclamation 7757, Proclamation 9398, and Proclamation 9699.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
February 24, 2021.

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Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR 1740

[RUS–20–Telecom–0023]

RIN 0572–AC51

Rural eConnectivity Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule; request for comments.

SUMMARY: The Rural Utilities Service (RUS), a Rural Development agency of the United States Department of Agriculture (USDA), hereinafter referred to as ''RUS'' or ''the Agency'', is issuing a final rule to establish the Rural eConnectivity Program. The Rural eConnectivity Program provides loans, grants, and loan/grant combinations to facilitate broadband deployment in rural areas. This rule describes the eligibility requirements, the application process, the criteria that will be used by RUS to assess applicants' creditworthiness and outlines the application process. In addition, the Agency is seeking comments on the final rule.

DATES:

Effective date: This final rule is effective April 27, 2021.

Comment date: Comments due on or before April 27, 2021.

ADDRESSES: You may submit comments, identified by docket number RUS–20–Telecom–0023 and Regulatory Information Number (RIN) number 0572–AC51 through *https://www.regulations.gov*.

Instructions: All submissions received must include the Agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For general inquiries, contact Laurel Leverrier, Acting Assistant Administrator Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture (USDA), email: *laurel.leverrier@usda.gov,* telephone: (202) 720–9556.

SUPPLEMENTARY INFORMATION:

Background

The Agency improves the quality of life in rural America by providing investment capital for deployment of rural telecommunications infrastructure. To achieve the goal of increasing economic opportunity in rural America, the Agency finances infrastructure that enables access to a seamless, nationwide telecommunications network. With access to the same advanced telecommunications networks as its urban counterparts—especially those designed to accommodate distance learning, telework, and telemedicine—rural America will eventually see improving educational opportunities, health care, economies, safety and security, and ultimately higher employment.

On March 23, 2018, Congress passed the Consolidated Appropriations Act, 2018 (Pub. L. 115,141) (the 2018 Appropriations Act), which established a new broadband loan and grant pilot program, that was named the Rural eConnectivity Pilot Program. The 2018 Appropriations Act originally appropriated budget authority of $600 million to be used on an expedited basis. For fiscal year (FY) 2019, Congress funded an additional $550 million for the pilot through the Consolidated Appropriations Act, 2019 (Pub. L. 116–6). Once again, on December 20, 2019, Congress appropriated (Consolidated Appropriations Act, 2020 (Pub. L. 116–94)) $555 million to continue the program. In addition, the Coronavirus Aid, Relief, and Economic Security Act provided another $100 million in grant funding for the program.

The Rural eConnectivity Program provides loans, grants, and loan/grant combinations to facilitate broadband deployment in rural areas. In facilitating the expansion of broadband services and infrastructure, the program will fuel long-term rural economic development and opportunities in rural America. One of those opportunities is precision agriculture. The use of this technology requires a robust broadband connection. The awards made under this program will bring high-speed broadband to the farms, which will allow them to increase productivity.

Since its establishment under the 2018 Act, RUS has implemented the Rural eConnectivity Program by issuing Funding Opportunity Announcements (FOAs). The round one FOA was published December 14, 2018 (83 FR 64315). The round two FOA was published December 12, 2019 (84 FR 67913), and included a request for comments under USDA's Regulatory Reform Notice published on July 17, 2017 (82 FR 32649).

The Agency received comments from six respondents on the round two FOA through USDA's Regulatory Reform Federal Register Docket ID: *USDA–2017–0002–0001.* The respondents included one company, three internet/television associations, one state board and one individual. RUS has reviewed and analyzed each response. Multiple respondents included several comments. The following is a summary of the key comments from each respondent and the Agency's responses:

Respondent One

For Round 3, Respondent recommends that RUS consider redefining ''sufficient access to broadband'' to mean any rural area in which households have fixed terrestrial broadband service delivering at least 25 mpbs/3 mbps with a limited exception as detailed in comment 3. Presumably, round 3 would not take place until at least 2021, and those networks funded by a 3rd round would not be built out until several years after. This would mean areas that fall between 10/1 mbps and 25/3 mbps would have to wait several years for meaningful upgrades.

Agency response: To accommodate this request the regulation implements procedures that allow the definition of sufficient access to be updated any time an application window is opened through a notice in the **Federal Register.**

The Rural eConnectivity Program funded networks should not overbuild existing networks or federally supported planned networks. General Field Representatives (GFR) did a good job of surveying existing networks. Contractors hired by USDA did not

fulfill their responsibilities which resulted in RUS not adhering to the requirements to not fund networks where at least 10/1 mbps service exists. The comment lists two specific scenarios. Respondent recommends that RUS avoid using contractors, but if they must be used, better training is needed. Agency GFRs should work more closely with contractors to ensure that they fulfill their duties to accurately verify whether service exists.

Agency response: Starting with Round 2, GFRs now have the lead role in completing field reviews to determine if sufficient access to broadband exists in an area.

RUS should make any area where the Federal Communication Commission (FCC) is, at the time of application consideration, committing funding to build a terrestrial network ineligible for Rural eConnectivity Program Awards. This should include funding from ACAM, CAF–BLS, Alaska Plan, CAF II Auction, and RDOF USF High Cost Program funding streams. The one exception is areas funded by the Universal Service Fund (USF) high cost program where most of the area has 25/3 mpbs which some have less. The Agency should allow USF recipients to apply for funding to bring higher speeds that the FCC has mandated to the areas they already serve.

Agency response: The proposed regulation allows the Agency to establish what areas are to be protected when new application windows are opened through a notice in the **Federal Register**. The Agency continues to work with the FCC to identify areas where they are providing funds and where RUS is providing funds.

Respondent recommends that RUS allow applicants, working with Tribal entities, to certify fisheries in the same way the Rural eConnectivity Program allows farms to be certified. In some parts of the country, fisheries are key to economic development and broadband is just as important at sea for both safety and efficiency of production as it is on land. Placing fishing on equal footing with farming will provide additional geographical diversity to the applicant pool and ensure economically important coastal areas get the broadband they need.

Agency response: The proposed regulation allows for scoring criteria to be established each time an application window is opened. If farms are used for scoring criteria in future application windows, we will consider counting fisheries as farms.

Respondent Two

The following comments apply to the application process:

Limit required data submissions to the corporate entity applying and the geographic area and/or project affected.

Agency response: The information requested in the application is the minimal amount that is needed to determine if the company can adequately address the needs of the proposed project and remain a viable operation.

Limit information requests to reduce the amount of data sought from the applicant's parents and affiliates that is not critical to determining whether an award should be made and to information about the affected geographical area.

Agency response: Each application is unique. RUS only requests information about parents and affiliates that is needed in order to make a sound financial decision about the project.

Clarify that an applicant need only submit information about non-funded service areas (NFSA) that are related to the proposed funded service area (PFSA), rather than all of the applications NFSAs.

Agency response: The purpose of the NFSA is to provide sufficient information to evaluate the viability of an operation. Publicly traded companies with a sufficient bond rating have publicly demonstrated this and there is no need for the NFSA. The proposed regulation does allow publicly traded companies an option where they do not have to submit their NFSAs. However, all other applicants will need to submit all of the service areas in the NFSAs and PFSAs.

Permit subleasing rights so that an applicant is not required to own the facilities used to provide broadband, so long as the entity owning the facilities is an affiliated entity that gives RUS sufficient financial security.

Agency response: To ensure that the project is completed, the entity applying for the award must own the facilities. Additionally, so that the agency retains its security in the collateral, legal documents must be entered into with entity that controls such assets. However, the agency has been amenable to entering into co-awardee agreements where assets must be held by an affiliate.

Publicly traded companies cannot share the forward-looking data RUS requires.

Agency response: The proposed regulation has options that publicly traded companies can elect, where they would not have to submit forward-looking projections.

Allow providers alternate ways to establish their project capabilities, such as demonstrating financial viability through publicly available Securities and Exchange Commission filings, replacing the first lien on assets requirement with alternatives for security options, and implementing a budgeting methodology that is more flexible than the Capital Investment Workbook.

Agency response: The Agency will consider substitute collateral options; however, any solution must take into consideration that deviating from the agency's standard security arrangements will require significant time and legal resources, which may not be available. The capital investment workbook is set up to ensure that adequate funds are considered to ensure the project is properly funded.

Defer network design and environmental showings until later in the RUS funding process and allow in-house engineers to certify projects.

Agency response: Network designs must be completed in order to identify all resources that are needed for the project.

Enable the widest possible participation by eliminating the ban on applications from broadband providers organized as partnerships or joint ventures.

Agency response: The proposed regulation now includes language to clarify specifically what types of partnerships are eligible and which types are still considered ineligible. Partnerships that do not involve individuals are now eligible entities.

The following comments apply to the award process:

Take stronger steps to ensure that funded areas are truly unserved, including: (i) Undertaking better coordination of maps and data with the FCC to avoid granting duplicative funding to the same area; (ii) considering an area to be ''served'' once a provider has built a broadband network there, regardless of whether it has yet secured customers in that area; and (iii) considering an area to be ''served'' if federal or state broadband funding has been committed to that area, or a provider has a binding commitment to build a broadband network there, regardless of whether those networks are yet built out (as long as the provider is meeting applicable build-out deadlines).

Agency response: We continue to work with the FCC to ensure that their program and RUS' programs are complementary of each other. The proposed regulation allows the Agency to establish what areas are eligible for

funding at the time an application window is opened.

Adopt provisions to ensure a more technology-neutral scoring process, including eliminating any bonus points for networks that offer symmetrical speeds or providers in states who have authorized electric cooperatives to offer broadband service.

Agency response: The agency will consider eliminating preferential scoring for high-speed symmetrical systems in the next funding window.

Allow automated certification for businesses served.

Agency response: The agency continues to explore options for publicly available data that could be used to count businesses. However, note that RUS may or may not use businesses as a scoring criteria in future rounds of funding.

Do not deny entire applications when one area proposed to be served is ineligible, instead modifying the application to exclude the ineligible area.

Agency response: Under this regulation, the Agency has the ability to revise applications by excluding ineligible areas. Notwithstanding that ability, for grant applications subject to scoring and competition, the Agency can only do this when eliminating the ineligible area would not modify the application or require that the applicant revise the application.

Require that awardees comply with the FCC's pole attachment rules and fee restrictions.

Agency response: Awardees that are subject to the FCC are already required to follow these requirements. For other entities not subject to the FCC, the Agency cannot impose these requirements without authority.

The following comments apply to the challenge process:

Increase transparency in the challenge process by making maps available of eligible areas and keeping them updated.

Agency response: The Agency continually updates its mapping with any new information it receives. However, it is impossible to update mapping with information that the Agency is not aware of. That is why the Agency can only make a final determination by sending staff to the area to complete a field analysis.

Publicly post written decisions on challenges explaining RUS's reasons for granting or denying the challenge prior to an award being issued for the challenged area.

Agency response: For Round 2, public notice response respondents are already being notified if their challenge was successful or not. Unfortunately, RUS cannot make public its responses to challenges because the information submitted by respondents is protected from release by law.

Allow for appeals of decisions on challenges prior to announcing an award—Update the map of eligible areas following the final resolution of each challenge and award and before applications are submitted for the next round of funding.

Agency response: The Agency will take this recommendation under consideration for future rounds. With respect to the latter request, that is already being done.

Respondent Three

RUS should consider allowing subsidiaries to use facilities and assets of affiliates to satisfy application and program requirements.

Agency response: There are procedures currently in place that allow for this scenario. In the future, the Agency will continue to consider the possibility of allowing co-applicants.

The following comments apply to the application process:

Refine option for a company to apply for Rural eConnectivity Program funds using a dedicated subsidiary:

Agency response: If the subsidiary can meet the requirements of the program, they are eligible to apply. Additionally, in order that the security arrangements are maintained, the agency has been amendable to entering into co-awardee agreements where assets must be held by a subsidiary.

Consider reforms that would make it easier for companies to apply directly at the parent or operating company level.

Agency response: The proposed regulation has made allowances for publicly traded companies that provide them with more options on applying.

Simplify the means by which an applicant's technical capabilities and financial viability can be confirmed such as using public information filed with the Securities and Exchange Commissions for financial viability or narrative or aggregated information about existing experience in the marketplace for technical viability.

Agency response: The proposed regulation now contains options for publicly traded companies not to have to submit forward looking financial projections.

Consider eliminating or substantially reducing application requirements relating to NFSAs. Submission of detailed information regarding NFSAs is more administratively burdensome for larger applicants.

Agency response: The proposed regulation permits publicly traded companies not to submit NFSAs if they meet certain requirements.

Submitting detailed information and projections regarding services, investments and customers within NFSAs raises significant competitive concerns that outweigh any limited benefit.

Agency response: With respect to the submission of information that may be competitive, the Agency protects the release of business proprietary information to the full extent under the law. In order to understand the entire financial picture of an applicant, the Agency must review the operations of NFSAs. However, the proposed regulation now reduces that burden for publicly traded companies, by permitting them not to submit NFSAs if they meet certain requirements.

Requiring applicants to submit forward-looking projections for NFSAs creates risks for publicly traded companies. Limit projections just to PFSAs—Simplify submissions for NFSAs.

Agency response: Per the proposed regulation, publicly traded companies do not have to submit NFSAs if they meet certain requirements.

Instead of submission of geospatial data through the mapping tool, should consider allowing applicants to submit a more general description of their existing footprints.

Agency response: In order to stop overlapping funding, a copy of the PFSA is necessary. This shapefile will also be required to be submitted as part of the statutory reporting requirements and will have to be updated annually.

Consider de-coupling the requirement to submit mapping information for an applicant's NFSAs from the submission of other information such as customer count, service offerings and further business projections.

Agency response: The agency is committed to assisting the federal government in mapping out broadband availability in rural areas as much as it can. The agency understands that this may be an onerous undertaking for publicly traded companies, and so the agency has created a carve-out for these entities if they meet certain requirements.

Rather than require applicants to identify competitive offerings from other providers within each NFSA, consider allowing applicants to provide narrative information describing the competition they face from other providers.

Agency response: Competitive information is extremely important to

the financial feasibility of the award, and detailed information about the competitive pressures on an applicant within its entire service area is extremely important in making a financial decision on an award.

The following two comments apply to clarifying and narrowing the requirement to submit network diagrams to facilities involved in the proposed project:

Narrow the requirement to submit a network diagram only to the project(s) set forth in the application and any existing network elements that would be leveraged to support such new network facilities.

Agency response: Complete network diagrams are required to ensure the capabilities of the entire system.

Clarify that applicants may provide a general narrative description in lieu of a diagram with respect to the remainder of their network.

Agency response: Complete network diagrams are required to ensure the capabilities of the entire system.

Consider allowing providers to propose budgets rather than using RUS's online capital investment workbook.

Agency response: The capital investment workbook was developed to ensure consistency in comparing all applications and that all necessary information is submitted to demonstrate that all requirements can be satisfied.

Consider securities filings and other publicly available information to confirm applicant's financial viability.

Agency response: The proposed regulation now has options for publicly traded companies.

The following two comments apply to simplifying changes to the application and evaluation criteria.

Remove discrepancy between fiber to the home (FTTH) and hybrid coaxial fiber (HFC) network designs—awarding points for symmetrical speeds affords significant advantages to FTTH versus HFC and it is inconsistent with ''technology neutral.''

Agency response: There are no discrepancies between using these types of technologies. Under the proposed regulation, scoring criteria will now be established prior to opening an application window. Points for bandwidth capability may or may not be used.

Allow applications to be supported by in-house engineers on the same terms as it permits program awardees to support particular construction projects with in-house engineering staff. Requiring use of an external, certified engineer adds unnecessary cost and complexity.

Agency response: There are currently procedures in place that allow awardees to use in-house engineering services.

The following comments apply to terms and conditions:

Consider modifying the financial restrictions on grant recipients. The financial restrictions that the grant and security agreement impose impede the ability of financially stable providers to engage in commonplace transactions necessary for their business if they participate in the program at the parent level.

Agency response: The Agency has been using the current award documents for a number of years, and these agreements ensure that program requirements will be satisfied. However, that said, the Agency is unaware of any provisions in the grant agreement that would impede participants from conducting normal business transactions. This concern has not been raised to the Agency before.

Consider narrowing the ''Right of Inspection'' to documents relating to the RUS-Funded project.

Agency Response: The Agency's right to inspect documents is already limited to the RUS project and any agreements or documents that are directly related to the project.

The following comments apply to allowing greater flexibility in contracting and vendor selection:

Offer awardees the option to proceed with their regular contracting and construction processes without requiring RUS approval for each process.

Agency response: In order to ensure that federal law is being followed with respect to environmental law and the uniform federal grant requirements at 2 CFR 200, especially with respect to bidding, the Agency must impose certain contracting and construction procedures.

Consider capping contributions to a given project, which would cause the grantee to bear the risk of running over budget.

Agency response: Given the large amount of federal investment in these projects, and the need for broadband facilities in rural America, awardees must covenant that the project will be finished with their own funds if necessary, otherwise the federal investment will have been wasted.

Narrow the current construction procedures requirement that applicants obtain RUS approval before contracting with an affiliate.

Agency response: The Agency's approval to contract with affiliates ensures that an awardee is not paying more than necessary.

Respondent Four

For the current and future rounds, we strongly recommend that state and county fairgrounds be included within the definition of essential community facilities. In California, fairgrounds continue to be essential in supporting the safety, health and well-being of residents—serving as evacuation centers and shelters during fires and floods. Of California's 77 fairgrounds, 36 (47 percent of all fairs in the state) have been activated as evacuation centers, fire camps, and animal shelters providing direct emergency response and public safety activities. Sufficient access to broadband connectivity at these locations is critical to provide individuals and families impacted by emergencies essential access to communication, banking and other services. Allowing state and county fairground eligibility as essential community facilities is a priority for our state to extend overall broadband connectivity and better prepares for future emergencies. A list of their fairgrounds with the addresses and coordinates was provided.

Agency response: The Agency will take this under consideration. The proposed regulation allows scoring criteria to be established at the time an application window is opened. Essential community facilities may or may not be used in future funding rounds.

Respondent Five

Over many years, RUS, which administers programs that provide infrastructure or infrastructure improvements to rural communities, has served with distinction through oversight from the USDA. Providing economic incentives to allow for broadband deployment in rural areas through the Rural eConnectivity program seems to be an appropriate use of federal funds.

Agriculture plays an important part in the American economy. Today, production and consumption occur practically simultaneously so a lack of good broadband service quickly turns to no service whatsoever. This program, which relies on an interplay of effort, may help to bring stable, permanent and dependable service and give an opportunity to aid in molding and directing a public enticement that recognizes the importance of farming; including small business enterprises to every branch of industry and commerce in the country.

This grant program, if implemented with checks and balances for compliance, has an advantage in that it affords an added means of raising funds

that meet the great and increasing demand for capital expenditures for the extension and improvement of modern broadband systems. The taxpayer return on investment here is fair and justified so that small customers will get the benefit of it.

The RUS program should be reviewed periodically and continued as it serves the interest of Americans as a whole.

Agency response: Respondent five's response was more feedback versus requests for change. The Agency appreciates the positive feedback.

Respondent Six

Respondent wholeheartedly agrees that the FCC and RUS will need to work together to avoid any result that would squander available funds, and that the agencies should establish, prior to initiating these new rounds of funding, which areas should be prioritized and ensure that duplicative support is not assigned to different providers for delivery of overlapping services. Such a negative result would upset the legitimate expectations of those submitting bids for funding that they would be the only recipients of federal support directed to deploying new service. Only through coordination of efforts can the two agencies maximize the benefit of the federal funds allocated and optimize the delivery of new or improved broadband capability to rural areas to close the digital divide.

Agency response: The Agency continues to work with the FCC to identify areas where they are providing funds and where RUS is providing funds.

In addition to the comments received under the round two FOA, the Agency collected stakeholder feedback utilizing various methods including, conducting phone and in-person interviews, hosting webinars, and hosting workshops across the country. Through these venues, the Agency regularly heard the following:

- Financial requirements were burdensome and could be streamlined to better serve rural communities.
- Specific required documents should be made optional due to their minimal impact on the viability of the applying entity and the proposed project.
- The Agency should consider higher minimum speed requirements in order to ensure systems do not become obsolete before the end of its composite economic life.
- The scoring criteria should remain flexible and continually be updated to include the most up-to-date, accurate, and available data.
- The public notice response period should be extended to longer than 30 days.

The Agency utilized the submitted comments, stakeholder feedback and experience gained from rounds one and two to develop this final rule, which will codify policies and procedures for administering the program. Changes that will be codified in the regulation include, but are not limited to, the following:

- The requirement for two years of unqualified, comparative, audited financial statements has been changed to unqualified, comparative, audited financial statements for the previous fiscal year of the applicant from the date the application has been submitted.
- The requirement that applicants must submit certifications from the appropriate state or tribal broadband office has been changed to a voluntary request.
- Under certain conditions, a subsidiary can use the unqualified, comparative, audited statements of their parent to meet certain eligibility requirements.
- The first two rounds of funding had restrictions associated with the Federal Communication Commission's (FCC) funding of the CAF II–903 areas. The Agency has elected to remove these restrictions as the FCC buildout requirements are implemented and these areas become ineligible. The Agency will continue to work with the FCC to maximize the funding that both the FCC and RUS make available to rural America.
- Additional sections, including the scoring criteria, eligible service area threshold, eligible award costs, and public notice response period were also adjusted since round one. These requirements will be determined on an annual basis and published in the **Federal Register** in order for the Agency to remain responsive to stakeholder needs. Based on the prior feedback received, the Agency is issuing this rulemaking as a Final Rule with comment. The Agency specifically requests public comment on the speed used to determine eligibility.

Based on the prior feedback received, the Agency is issuing this rulemaking as a Final Rule with comment. The Agency specifically requests public comment on the speed used to determine eligibility. Based on the speed requirements implementing the statutory requirements of the program of the Round 1 and Round 2 FOAs, the Agency required a minimum of 10/1 Mbps service in order to qualify for eligibility. For future rounds, the Agency would take into account comments received under this rulemaking to establish future speed requirements, which will be announced in the **Federal Register** in the funding opportunity announcements.

Executive Order 12866, Regulatory Impact Analysis

This rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866. In accordance with Executive Order 12866, a Regulatory Impact Analysis was completed, outlining the costs and benefits of implementing this program in rural America. The complete analysis is available in Docket RUS–20–Telecom–0023 on *Regulations.gov*. The following is a summary discussion of the Analysis:

The final rule will codify statutory language from the 2018 Consolidated Appropriations Act that established the Rural eConnectivity Program and the 2018 Farm Bill with respect to public notice and reporting requirements, as well as general policies and procedures for the program. The result will be consistent, predictable program delivery that allows the Agency to deploy reliable, high-speed broadband into unserved areas and fuel long-term economic development and opportunities in rural America.

The Agency estimates up to 500 organizations may be interested in applying for the Rural eConnectivity Program and approximately 200 awards will be made each funding round. The Agency estimates the total cost to applicants to be $19,426 per applicant respondent and $6,837 per award recipient respondent. The administrative cost to the Federal Government to administer the program is estimated to be $5,495,802.

On October 21, 2017, United States Department of Agriculture (USDA) Secretary Sonny Perdue released the ''Report to the President of the United States from the Task Force on Agriculture and Rural Prosperity.'' The report was a product of the Interagency Task Force on Agriculture and Rural Prosperity, which was formed to identify legislative, regulatory, and policy changes to promote agriculture, economic development, job growth, infrastructure improvements, technological innovation, energy security, and quality of life in rural America per Executive Order 13790 (82 FR 20237). In partnership with local, state, and tribal leaders, and dozens of federal agencies, the report identified eConnectivity as one of five key catalysts to achieving prosperity in rural America.

In conclusion, the Agency notes that reliable, affordable high-speed internet is essential in today's global economy.

A robust broadband connection allows students greater access to educational opportunities, patients greater access to health care professionals, businesses access to customers around the world, and farmers the ability to increase productivity and profitability. The awards made under the Rural eConnectivity Program will provide increased opportunity and bring much-needed critical infrastructure to rural America.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as a major rule, as defined by 5 U.S.C. 804(2).

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that conflict with this rule will be preempted. No retroactive effect will be given to this rule.

Executive Order 12372, Intergovernmental Consultation

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require a consultation with State and local officials. See the final rule related notice entitled, ''Department Programs and Activities Excluded from Executive Order 12372'' (50 FR 47034) advising that RUS loans and loan guarantees were not covered by Executive Order 12372.

Regulatory Flexibility Act Certification

RUS certifies that this rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS telecommunications program provides loans to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Environmental Impact Statement

This final rule has been reviewed in accordance with 7 CFR part 1970 (''Environmental Policies and Procedures''). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (ii) no extraordinary circumstances exist; and (iii) the action is not ''connected'' to other actions with potentially significant impacts, is not considered a ''cumulative action'' and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) number assigned to the Rural e-Connectivity Pilot Program is 10.752. The Catalog is available on the internet at *https://beta.sam.gov/.* The Government Publishing Office (GPO) prints and sells the CFDA to interested buyers. For information about purchasing the Catalog of Federal Domestic Assistance from GPO, call the Superintendent of Documents at (202) 512–1800 or toll free at (866) 512–1800, or access GPO's online bookstore at *https://bookstore.gpo.gov.*

Unfunded Mandates

This rule contains no federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for state, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of § 202 and 205 of the Unfunded Mandates Reform Act of 1995.

E-Government Act Compliance

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

Executive Order 13132, Federalism

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

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects 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.

Rural Development has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under Executive Order 13175. If a Tribe requests government-to-government consultation, Rural Development will work with the Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress. If a tribe would like to engage in government-to-government consultation with Rural Development on this rule, please contact Rural Development's Native American Coordinator at (720) 544–2911 or *AIAN@usda.gov.*

Additionally, Rural Development recognizes the challenges of deploying broadband in tribal communities. The Agency further notes that this regulation sets the framework for the administration of the Rural eConnectivity Program but does not set the priority point scale or content that will be used for scoring in upcoming application windows. The specific scoring scale for each round will be set and published in future funding announcements. In past instances, Rural Development has sought comment on the contents of the funding announcement. To ensure that Native American Tribes have a meaningful opportunity to provide input to the next upcoming funding notice, Rural Development will coordinate with USDA's Office of Tribal Relations to conduct at least one listening session to collect recommendations from tribes on how Rural Development's broadband programs can be improved to better meet the broadband challenges that tribes face, identify opportunities to leverage and coordinate assistance from

other federal agencies and gain additional insight into the unique economic, geographical and political realities that continue to impair access to affordable broadband in many tribal communities. The listening session will be held prior to the release of the next Rural eConnectivity Program funding announcement, and tribal communities will be notified once this session has been scheduled.

USDA Rural Development has participated in listening sessions and Farm Bill tribal consultations that have either specifically been focused on the Rural eConnectivity Program or have touched on the challenges with utilizing Rural Development's programs to finance broadband infrastructure throughout Indian Country and Alaska. For instance, on June 4, 2018, USDA's Senior Advisor for Rural Infrastructure, the Assistant Administrator for the Telecommunications Programs and Rural Development's Native American Coordinator hosted a listening session on the legislation authorizing the Rural eConnectivity Pilot program during the National Congress of American Indians Midyear Conference in Kansas City, MO, prior to the release of the first funding announcement for the program. Additionally, in May and June of 2019, the Administrator of the Rural Utilities Service and Rural Development's Native American Coordinator participated in USDA Farm Bill consultations hosted by USDA's Office of Tribal Relations in Washington, DC and Reno, NV. Although the Rural eConnectivity Program was not the focus of these sessions, concerns from tribal leaders regarding broadband infrastructure and Rural Development's programs were shared at both events.

Over the last two years, Rural Development has targeted outreach to tribes during Round 1 and Round 2 of the Rural eConnectivity Program funding opportunities. For instance, in April of 2019, a tribal focused Rural eConnectivity Program technical assistance workshop was held on the Pascua Yaqui reservation just outside of Tucson, AZ. Subsequently, in January and February of 2020, Rural Development's Native American Coordinator attended the Round 2 Rural eConnectivity Program technical assistance workshops in Seattle and Denver. He hosted a breakout session at both workshops on collaborating with tribes and was available to answer questions of potential tribal applicants.

Rural Development's State Directors, Telecom General Field Representatives, and additional Rural Development staff have met with tribes on a regular basis to discuss tribal broadband projects, tribal broadband challenges and Rural Development programs throughout this period as well. For instance, in August of 2019, USDA Rural Development—Colorado hosted a broadband workshop in Durango, CO. Tribes in the region were encouraged to participate and Rural Development leadership used the opportunity to visit two nearby tribes to discuss their current development priorities and challenges—including access to broadband infrastructure.

Finally, Rural Development has looked to leverage interagency opportunities to provide outreach to tribes. For instance, Rural Development staff hosted 3 workshops at the inaugural National Tribal Broadband Summit hosted by the Department of Interior in September of 2019. The Administrator for the Rural Utilities Service also provided closing comments at the conclusion of the first day of the summit. More recently, on July 20, 2020, Rural Development staff participated in a Community Broadband Funders Webinar hosted by FEMA Regions 9 and 10 and provided information on Rural Development's telecommunications and broadband programs, including the Rural eConnectivity Program. Additional federal agencies that presented information during the webinar included Department of Commerce's National Telecommunications Information Administration and the Economic Development Administration, the Federal Communications Commission, HUD's Office of Native American Programs, Health and Human Services and FEMA. The webinar was not a tribal specific event, but tribes were encouraged to participate and some of the content was geared specifically to tribal participants.

Ongoing outreach, interagency collaboration, and project meetings with tribes helps inform RD leadership of ongoing tribal challenges and opportunities regarding broadband financing and infrastructure deployment. These types of interactions led to tribal application priority points in the first Rural eConnectivity Program funding announcement and special consideration for tribal broadband plans and tribal critical facilities in the application scoring criteria during the first and second Rural eConnectivity Program funding opportunities. Moving forward, this type of tribal collaboration, along with the tribal listening session planned for this rule, will help inform Rural Development staff in the development of future Rural eConnectivity Program funding opportunity announcements.

Civil Rights Impact Analysis

Rural Development, a mission area for which RUS is an agency, has reviewed this rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. After review and analysis of the rule and available data, it has been determined that based on the analysis of the program purpose, application submission and eligibility criteria, issuance of this Final Rule is not likely to adversely or disproportionately impact very low, low and moderate-income populations, minority populations, women, Indian tribes or persons with disability, by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this rule.

Information Collection and Recordkeeping Requirements

The Information Collection and Recordkeeping requirements contained in this rule have been submitted for approval under OMB Control Number 0572–0152.

List of Subjects in 7 CFR Part 1740

Broadband, Community development, Grant programs—communications, Loan programs—communications, Rural areas, Telecommunications.

■ Accordingly, for reasons set forth in the preamble, chapter XVII, title 7, the Code of Federal Regulations is amended by adding new part 1740 to read as follows:

CHAPTER XVII—RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE

PART 1740—RURAL ECONNECTIVITY PROGRAM

Sec.

Subpart A—General

1740.1 Overview.
1740.2 Definitions.
1740.3 Funding parameters.
1740.4 Certifications.
1740.5–1740.8 [Reserved]

Subpart B—Eligibility Requirements

1740.9 Eligible and ineligible entities.
1740.10 Eligible projects.
1740.11 Eligible and ineligible service areas.
1740.12 Eligible and ineligible cost purposes.
1740.13–1740.24 [Reserved]

Subpart C—Award Requirements

1740.25 Substantially Underserved Trust Areas.

1740.26 Public notice.
1740.27 Environmental and related reviews.
1740.28 Civil rights procedures and requirements.
1740.29–1740.41 [Reserved]

Subpart D—Award Terms

1740.42 Interest rates.
1740.43 Terms and conditions.
1740.44 Security.
1740.45 Advance of funds.
1740.46 Buy American requirement
1740.47–1740.58 [Reserved]

Subpart E—Application Submission and Evaluation

1740.59 Application submission.
1740.60 Elements of a complete application.
1740.61 Evaluation for technical and financial feasibility.
1740.62 Evaluation of Awardee operations.
1740.63 Financial information.
1740.64 Network design.
1740.65–1740.76 [Reserved]

Subpart F—Closing, Servicing, and Reporting

1740.77 Offer and closing.
1740.78 Construction.
1740.79 Servicing of grants, loan and loan/grant combinations.
1740.80 Accounting, reporting, and monitoring requirements.
1740.81 Default and de-obligation.
1740.82–1740.93 [Reserved]

Subpart G—Other Information and Federal Requirements

1740.94 Confidentiality of Applicant information
1740.95 Compliance with applicable laws.
1740.96–1740.99 [Reserved]
1740.100 OMB control number.

Authority: 7 U.S.C. 1981(b)(4), 7 U.S.C. 901 *et seq.,* 7 U.S.C. 950aaa *et seq.,* and 7 U.S.C. 950cc.

Subpart A—General

§ 1740.1 Overview.

(a) The Rural eConnectivity Program, hereinafter referred to as Program, provides funding in the form of loans, grants, and loan/grant combinations for the costs of construction, improvement, or acquisition of facilities and equipment needed to facilitate broadband deployment in rural areas. One of the essential goals of the Program is to expand broadband service to rural areas that do not have sufficient access to broadband. This part sets forth the general policies, eligibility requirements, types and terms of loans, grants, and loan/grant combinations and program requirements.

(b) Additional information and application materials regarding the Program can be found on the Rural Development website.

§ 1740.2 Definitions.

(a) The following definitions apply to this part:

Administrator means the Administrator of the Rural Utilities Service, or the Administrator's designee.

Agency means the Rural Utilities Service (RUS).

Applicant means an entity requesting funding under this part.

Application means the Applicant's request for federal funding, which may be approved in whole or in part by RUS.

Award documents mean, as applicable, all associated grant agreements, loan agreements, or loan/grant agreements.

Award means a grant, loan, or loan/grant combination made under this part.

Awardee means a grantee, borrower, or borrower/grantee that has applied and been awarded federal assistance under this part.

Broadband loan means, for purposes of this regulation, a loan that has been approved or is currently under review by RUS after the beginning of Fiscal Year 2000 in the Telecommunications Infrastructure Program, Farm Bill Broadband Program, Broadband Initiatives Program or this Program.

Broadband loans that were rescinded or defaulted on, or the terms and conditions of which were not met, are not included in this definition, so long as the entity under consideration for an award under this part has not previously defaulted on, or failed to meet the terms and conditions of, an RUS loan or had an RUS loan rescinded.

Broadband service means any fixed terrestrial technology, including fixed wireless, having the capacity to transmit data to enable a subscriber to the service to originate and receive high quality voice, data, graphics and video.

CALEA means the Communications Assistance for Law Enforcement Act, 47 U.S.C. 1001 *et seq.*

Composite economic life means the weighted (by dollar amount of each class of facility) average economic life of all classes of facilities necessary to complete construction of the broadband facilities in the proposed funded service area.

Current ratio means the current assets divided by the current liabilities.

Debt Service Coverage Ratio (DSCR) means the ratio of the sum of the Awardee's total net income or margins, depreciation and amortization expense, and interest expense, minus an allowance for funds used during construction and amortized grant revenue, all divided by the sum of interest on funded debt, other interest and principal payment on debt and capital leases.

Economic life means the estimated useful service life of an asset as determined by RUS.

Eligible service area means any contiguous proposed funded service area where 90 percent of the households to be served do not have sufficient access to broadband service. For eligibility purposes, if an applicant is applying for multiple proposed funded service areas, each service area will be evaluated on a stand-alone basis.

Equity means total assets minus total liabilities as reflected on the Applicant's balance sheet.

Fixed wireless service means a wireless system between two fixed locations (*e.g.,* fixed transmitting tower to fixed customer premise equipment).

Forecast period means the five-year period of projections in an application, which shall be used by RUS to determine financial and technical feasibility of the application.

GAAP means accounting principles generally accepted in the United States of America.

Grant means any federal assistance in the form of a grant made under this part.

Grant agreement means the grant contract and security agreement between RUS and the Awardee securing the Grant awarded under this part, including any amendments thereto, available for review on the Agency's web page.

Indefeasible Right to Use (IRU) means the long-term agreement of the rights to capacity, or a portion thereof specified in the terms of a certain amount of bandwidth or number of fibers.

Loan means any federal assistance in the form of a loan made under this part.

Loan agreement means the loan contract and security agreement between RUS and the Awardee securing the Loan, including all amendments thereto, available for review on the Agency's web page.

Loan/grant means any federal assistance in the form of a loan/grant combination made under this part.

Loan/grant agreement means the loan/grant contract and security agreement between RUS and the Awardee securing the loan/grant, including all amendments thereto, available for review on the Agency's web page.

Non-funded service area (NFSA) means any area in which the applicant offers broadband service or intends to offer broadband service during the forecast period but is not a part of its proposed funded service area.

Pre-application expenses means any reasonable expenses, as determined by RUS, incurred after the release of a **Federal Register** notice opening an

application window to prepare an Application or to respond to RUS inquiries about the Application.

Premises means households, farms, and businesses.

Project means all of the work to be performed to bring broadband service to all premises in the proposed funded service area under the Application, including construction, the purchase and installation of equipment, and professional services including engineering and accountant/consultant fees, whether funded by federal assistance, matching, or other funds.

Proposed funded service area (PFSA) means the area (whether all or part of an existing or new service area) where the applicant is requesting funds to provide broadband service. Multiple service areas will be treated as separate standalone service areas for the purpose of determining how much of the PFSA does not have sufficient access to broadband. Each service area must meet the minimum requirements for the appropriate funding category to be an eligible area.

RE Act means the ''Rural Electrification Act of 1936,'' as amended (7 U.S.C. 901 *et seq.*).

Rural area means any area that is not located within: (1) A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or (2) an urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants as defined in the Agency mapping tool.

RUS Accounting Requirements shall mean compliance with GAAP, acceptable to RUS, the system of accounting prescribed by RUS Bulletin 1770B–1 and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, found at 2 CFR part 200. For all Awardees the term ''grant recipient'' in 2 CFR 200 shall also be read to encompass ''loan recipient'' and ''loan/grant recipient'', such that 2 CFR 200 shall be applicable to all Awardees under this part.

Sufficient access to broadband means a rural area in which households have *broadband service* at the minimum acceptable level of broadband, as set forth in the latest **Federal Register** notice announcing funding for the program. This definition will be used to determine the eligibility of a proposed service area and cannot be lower than 10 megabit per second (Mbps) downstream and 1 Mbps upstream. Mobile/Cellular and satellite services, which include systems that use satellite backbone facilities to connect to the internet, will not be considered in making the determination of sufficient access to broadband.

TIER means times interest earned ratio. TIER is the ratio of an Applicant's net income (after taxes) plus interest expense, all divided by interest expense and with all financial terms defined by GAAP.

(b) Unless otherwise provided in the award documents, all financial terms not defined herein shall have the meaning as defined by GAAP.

§ 1740.3 Funding parameters.

(a) For the purposes of this part:

(1) Ninety (90) percent of the PFSA must not have sufficient access to broadband service;

(2) Applicants must propose to build a network that is capable of providing broadband service to every premises located in the PFSA at the time the application is submitted at a speed defined in the latest **Federal Register** notice announcing funding for the Program; and

(3) The Agency reserves the right to make funding offers or seek consultations to resolve partially overlapping applications. RUS may contact the applicant for additional information during the review process. If additional information is requested, the applicant will have up to 30 calendar days to submit the information. If such information is not timely submitted, RUS may reject the application.

(b) The amount and types of funds available for assistance, as well as the maximum and minimum award amounts will be published in the **Federal Register**. Applicants may apply for grants, loans and loan/grant combinations.

§ 1740.4 Certifications.

The Applicant must certify to the following within the online application system:

(a) That it is authorized to submit the application on behalf of the eligible entity(ies) listed in the Application;

(b) That the Applicant has examined the Application;

(c) That all information in the Application, including certifications and forms submitted are, at the time furnished, true and correct in all material respects;

(d) That the entity requesting funding will comply with the terms, conditions, purposes, and federal requirements of the program;

(e) That a false, fictitious, or fraudulent statement or claim on the Application is grounds for denial or termination of an award, and/or possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001 and civil violations of the False Claims Act (31 U.S.C. 3729 *et seq.*);

(f) That the Applicant will comply with all applicable federal, tribal, state, and local laws, rules, regulations, ordinances, codes, orders, and programmatic rules and requirements relating to the project, and acknowledges that failure to do so may result in rejection or de-obligation of the award, as well as civil liability or criminal prosecution, if applicable, by the appropriate law enforcement authorities.

§§ 1740.5–1740.8 [Reserved]

Subpart B—Eligibility Requirements

§ 1740.9 Eligible and ineligible entities.

(a) To be eligible for funding, an Applicant may be either a nonprofit or for-profit organization, and must take one of the following forms:

(1) Corporation;

(2) Limited Liability Company and Limited Liability Partnership;

(3) Cooperative or mutual organization;

(4) States or local governments, including any agency, subdivision, instrumentality, or political subdivision thereof;

(5) A territory or possession of the United States; or

(6) An Indian tribe, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) Individuals and legal general partnerships that are formed with individuals are not eligible entities.

(c) Co-Applicants are not eligible entities. If two entities would like to partner with each other in delivering broadband to areas without sufficient access, then one entity must take the lead on submitting an application. Inter-company agreements can be used to account for revenues and expenses on the applicant's financial projections. However, based on the existing financial and security arrangements, the Agency may require that both, or other entities, be parties to the award documents, or guarantee the award.

§ 1740.10 Eligible projects.

To be eligible for funding assistance under the part, the Applicant must:

(a) Submit a complete application and provide all supporting documentation including unqualified, comparative, audited financial statements for the previous year from the date the application is submitted as detailed in § 1740.63.

(b) Demonstrate that the project can be completely built out within five years

from the date funds are first made available.

(c) Demonstrate that the project is technically feasible as detailed in § 1740.64.

(d) Demonstrate that all project costs can be fully funded or accounted for as detailed in § 1740.63.

(e) Submit documentation which enables RUS to determine that the project is financially feasible and sustainable as detailed in § 1740.61.

(f) Demonstrate that the following service requirements will be met:

(1) Facilities funded with grant funds will provide broadband service proposed in the application for the composite economic life of the facilities, as approved by RUS, or as provided in the Award Documents.

(2) Facilities funded with loan funds must provide broadband service through the amortization period of the loan.

§ 1740.11 Eligible and ineligible service areas.

(a) *Eligible service areas.* (1) Applicants must propose to provide broadband service directly to all premises in the PFSA.

(2) If any part of the applicant's PFSA is ineligible, RUS, in its sole discretion, may request that an applicant modify its application, if RUS believes the modification is feasible. Otherwise, RUS will reject the application.

(b) *Ineligible service areas.* (1) *Overlapping service areas.* RUS will not fund more than one project that serves any one given geographic area. Invariably, however, applicants will propose service areas that overlap, varying from small *de minimis* areas of the territory, but which may be significant with respect to households involved, to larger areas of the service territory, but which may contain few households or businesses, if any. As a result, devising a procedure that will cover every overlap circumstance is not practicable. Nevertheless, it is the agency's intent to make as many eligible applications viable for consideration as possible. That may mean the agency may:

(i) Determine the overlap to be so insignificant that no agency action is necessary;

(ii) Request one or more applications to be revised to eliminate the overlapping territory;

(iii) Choose one application over another given the amount of assistance requested, the number of awards already chosen in the area or State, or the need for the project in the specific area due to other factors; or

(iv) Simply choose the project that scores higher or in the judgement of the agency is more financially feasible.

(2) *Prior funded service areas to include:* (i) RUS Broadband loans. Service areas of borrowers that have RUS Broadband loans, as defined in this part, are ineligible for all other applicants, and can be found on the Agency web page for the program. However, RUS Broadband Borrowers that have built out their service areas consistent with their application and award documents, but were not required to provide, and are currently not providing, sufficient access to broadband pursuant to this regulation are eligible to apply for funding for these service areas; provided that they have not defaulted on, and have materially complied with, in the sole discretion of RUS, their prior Broadband loan award requirements. Current RUS Broadband Borrowers that have received funding to provide sufficient access to broadband but have not yet built out their system are ineligible to apply for funding for these service areas.

(ii) RUS Community Connect Grants. Service areas that received grants under the RUS Community Connect Grant Program are eligible if they do not have sufficient access to broadband, except for those grants still under construction. Service areas still under construction can be found on the Agency's web page.

(iii) RUS BIP Grants. Service areas that received a 100 percent grant under the RUS Broadband Initiatives Program are eligible if they do not have sufficient access to broadband.

(c) *Service areas with other funding.* (1) Applicants are encouraged to work with the Governor's office for the states, and tribal governments for the tribal areas where they are proposing to provide broadband service and submit information detailing where state funding has been provided.

(2) Service areas that have received federal grant funds, or funds from the Federal Communications Commission, to provide broadband service will be restricted from funding, if such funding is principally to construct facilities throughout the service area that provide broadband service at the threshold level of service. If additional service areas are restricted from funding, these areas will be identified in the funding opportunity announcement that opens an application window.

§ 1740.12 Eligible and ineligible cost purposes.

Award and any matching funds must be used to pay only eligible costs incurred post award, except for approved pre-application expenses. Eligible costs must be consistent with the cost principles identified in 2 CFR 200, Subpart E, Cost Principles. In addition, costs must be reasonable, allocable, and necessary to the project. Any application that proposes to use any portion of the award or matching funds for any ineligible costs may be rejected.

(a) *Eligible award costs.* Award funds under this part may be used to pay for the following costs:

(1) To fund the construction or improvement of facilities, including buildings and land, required to provide fixed terrestrial broadband service, including fixed wireless service, and any other facilities required for providing other services over the same facilities, such as equipment required to comply with CALEA;

(2) To fund reasonable preapplication expenses in an amount not to exceed five percent of the award. Preapplication expenses must be included in the first request for advance of award funds and will be funded with either grant or loan funds. If the funding category applied for has a grant component, then grant funds will be used for this purpose. If preapplication expenses are not included in the first request for advance of award funds, they will become an ineligible purpose; and

(3) To fund the acquisition of an existing system that does not currently provide sufficient access to broadband for upgrading that system to meet the requirements of this regulation. The cost of the acquisition is limited to 40 percent of the award amount requested. Acquisitions can be considered for 100 percent loans.

(b) *Ineligible award costs.* Award funds under this part may not be used for any of the following purposes:

(1) To fund operating expenses of the Awardee;

(2) To fund costs incurred prior to the date on which the application was submitted other than eligible preapplication expenses;

(3) To fund an acquisition of an affiliate, or the purchase or acquisition of any facilities or equipment of an affiliate. Note that if affiliated transactions are contemplated in the application, approval of the application does not constitute approval to enter into affiliated transactions, nor acceptance of the affiliated arrangements that conflict with the obligations under the award documents;

(4) To fund the acquisition of a system previously funded by RUS without prior written approval of RUS before an application is submitted;

(5) To fund the purchase or lease of any vehicle other than those used primarily in construction or system improvements;

(6) To fund broadband facilities leased under the terms of an operating lease or an indefeasible right of use (IRU) agreement;

(7) To fund the merger or consolidation of entities;

(8) To fund costs incurred in acquiring spectrum as part of a Federal Communication Commission (FCC) auction or in a secondary market acquisition. Spectrum that is part of a system acquisition may be considered;

(9) To fund facilities that provide mobile services;

(10) To fund facilities that provide satellite service including satellite backbone services;

(11) To fund the acquisition of a system that is providing sufficient access to broadband; or

(12) To refinance outstanding debt.

§§ 1740.13–1740.24 [Reserved]

Subpart C—Award Requirements

§ 1740.25 Substantially Underserved Trust Areas (SUTA).

Applicants seeking assistance may request consideration under the SUTA provisions in 7 U.S.C. 936f.

(a) If the Administrator determines that a community within ''trust land'' (as defined in 38 U.S.C. 3765) has a high need for the benefits of the Program, the Administrator may designate the community as a ''substantially underserved trust area'' (as defined in section 306F of the RE Act).

(b) To receive consideration under SUTA, the applicant must submit to the Agency a completed application that includes all information requested in 7 CFR part 1700, subpart D. In addition, the application must identify the discretionary authorities within subpart D that it seeks to have applied to its application. Note, however, the following:

(1) Given the prohibition on funding operating expenses in the Program, requests for waiver of the equity requirements cannot be considered; and

(2) Due to the statutory requirements that established the Program, waiver of the nonduplication requirements cannot be considered.

§ 1740.26 Public notice.

(a) To ensure transparency for the Program, the Agency's mapping tool will include the following information from each application, and be displayed for the public:

(1) The identity of the applicant;

(2) The areas to be served, including identification of the associated census blocks;

(3) The type of funding requested;

(4) The status of the application; and

(5) The number of households without sufficient access to broadband.

(b) The Agency will publish a public notice of each application requesting assistance under this part in accordance with the requirements of 7 U.S.C. 950cc. All applicants must provide the following information, which will be posted publicly on RUS' fully searchable website, in addition to the status of the application:

(1) A description of the proposed broadband project;

(2) A map of the PFSA;

(3) The amount and type of support requested by the applicant;

(4) The estimated number and proportion of service points in the proposed service territory without fixed broadband service, whether terrestrial or wireless; and

(5) Any other information required of the applicant in a funding notice.

(c) The public notice referenced under paragraph (b) of this section will be published after application submission and will remain available for 45 calendar days on the Agency's web page. During this period, existing service providers are requested to submit the following information through the Agency's mapping tool:

(1) The number of residential and business customers within the applicant's service area currently purchasing sufficient access to broadband, the rates of data transmission being offered, and the cost of each level of broadband service charged by the existing service provider;

(2) The number of residential and business customers within the applicant's service area receiving voice and video services and the associated rates for these other services;

(3) A map showing where the existing service provider's services coincide with the applicant's service area using the Agency's Mapping Tool; and

(4) Test results for the service area in question for a minimum of at least the prior three months demonstrating that sufficient access to broadband is being provided. The test results shall be for different times of the day.

(d) The Agency may contact service providers that respond under paragraph (b) of this section to validate their submission, and so responding service providers should be prepared to:

(1) Provide additional information supporting that the area in question has sufficient access to broadband service;

(2) Have a technician on site during the field validation by RUS staff;

(3) Run on site tests with RUS personnel being present, if requested; and

(4) Provide copies of any test results that have been conducted in the last six months and validate the information submitted in the public notice response months.

(e) If no broadband service provider submits information pursuant to a pending application or if the existing provider does not provide the information requested under paragraphs (b) and (c) of this section, RUS will consider the number of providers and extent of broadband service using any other data available through reasonable efforts, including utilizing the National Telecommunications and Information Administration National Broadband Availability Map and FCC broadband availability map. That may include the agency conducting field validations so as to locate facilities in the PFSA and determine, to the extent possible, if those facilities can provide sufficient access to broadband. Notwithstanding, conclusive evidence as to the existence of sufficient access to broadband will be taken only through the public notice process. As a result, the Agency highly recommends that existing service providers in a proposed funded service territory submit responses to the public notice to ensure that their service is considered in the determination of eligibility on an application.

(f) The Agency will notify respondents who are existing service providers whether their challenge was successful or not and allow for an opportunity to respond.

(g) The information submitted by an existing service provider under paragraph (c) of this section will be treated as proprietary and confidential and not subject to disclosure, pursuant to 7 U.S.C. 950cc(b)(3).

(h) For all applications that are approved, the following information will be made available to the public:

(1) The information provided in paragraph (a) of this section;

(2) Each annual report required under § 1740.80(g) will be redacted to protect any proprietary information; and

(3) Such other information as the Administrator of the RUS deems sufficient to allow the public to understand the assistance provided.

§ 1740.27 Environmental and related reviews.

(a) Federal Agencies are required to analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for Applicant projects or proposals seeking funding. Please refer to 7 CFR part 1970 for all of Rural Development's environmental policies. All Applicants must follow the requirements in 7 CFR part 1970 and are required to complete an Environmental Questionnaire, to

provide a description of program activities, and to submit all other required environmental documentation as requested in the application system or by the Agency after the application is submitted. It is the Applicant's responsibility to obtain all necessary federal, tribal, state, and local governmental permits and approvals necessary for the proposed work to be conducted.

(b) Applications will be reviewed to ensure that they contain sufficient information to allow Agency staff to conduct a NEPA analysis so that appropriate NEPA documentation can be submitted to the appropriate federal and state agencies, along with the recommendation that the proposal is in compliance with applicable environmental and historic preservation laws.

(c) Applicants proposing activities that cannot be covered by existing environmental compliance procedures will be informed whether NEPA requirements and other environmental requirements can otherwise be expeditiously met so that a project can proceed within the timeframes anticipated under the Program.

(d) If additional information is required after an application is accepted for funding, funds can be withheld by the agency under a special award condition requiring the Awardee to submit additional environmental compliance information sufficient for the Agency to assess any impacts that a project may have on the environment.

§ 1740.28 Civil rights procedures and requirements.

(a) *Equal opportunity and nondiscrimination.* The agency will ensure that equal opportunity and nondiscriminatory requirements are met in accordance with the Equal Credit Opportunity Act and 7 CFR part 15. In accordance with federal civil rights law and USDA civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).

(b) *Civil rights compliance.* Recipients of federal assistance under this part must comply with the Americans with Disabilities Act of 1990, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973. In general, recipients should have available for the Agency, racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs. The Agency will conduct compliance reviews in accordance with 7 CFR part 15. Awardees will be required to complete RD 400–4, ''Assurance Agreement,'' for each Federal Award received.

(c) *Discrimination complaints.* Persons believing they have been subjected to discrimination prohibited by this section may file a complaint personally or by an authorized representative with USDA, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250. A complaint must be filed no later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the designated officials of USDA or the Agency.

§§ 1740.29–1740.41 [Reserved]

Subpart D—Award Terms

§ 1740.42 Interest rates.

Interest rates for the different funding options that will become available will be included in the **Federal Register** as part of the funding announcement opening a funding window.

(a) Direct cost-of-money loans shall bear interest at a rate equal to the cost of borrowing to the Department of Treasury for obligations of comparable maturity.

(b) The agency may offer 100 percent loans at a reduced interest rate, and in such cases, the applicable interest rate will be stated in the **Federal Register** or applicable funding opportunity notice.

§ 1740.43 Terms and conditions.

Terms and conditions of loans, grants, or loan/grant combinations are set forth in the non-negotiable standard loan, grant, or loan/grant agreements and the corresponding note, and/or mortgage, if applicable, which may be found on the Agency's web page.

(a) Unless the Applicant requests a shorter repayment period, loans must be repaid with interest within a period that, rounded to the nearest whole year, is equal to the expected Composite Economic Life of the project assets, as determined by RUS based upon acceptable depreciation rates, plus three years. Acceptable depreciation rates can be found in the Program Construction Procedures found on the Agency's web page.

(b) Interest begins accruing on the date of each loan advance. Any deferral period for loans will be set in the **Federal Register** notice opening a funding window.

(c) All proposed construction (including construction with matching and other funds) and all advance of funds must be completed no later than five years from the time funds are made available.

(d) No funds will be disbursed under this program until all other sources of funding have been obtained and any other pre-award conditions have been met. Failure to obtain one or more sources of funding committed to in the Application or to fulfill any other pre-award condition within 90 days of award announcement may result in withdrawal of the award. The RUS may modify this requirement in the **Federal Register** or applicable funding opportunity notice.

§ 1740.44 Security.

(a) *Loans and loan/grant combinations.* The loan portion of the award must be adequately secured, as determined by RUS.

(1) For Corporations and limited liability entities, the loan and loan/grant combinations must be secured by all assets of the Awardee.

(i) RUS must be given an exclusive first lien, in form and substance satisfactory to RUS, on all assets of the Awardee, including all revenues.

(ii) RUS may share its first lien position with one or more lenders on a *pari passu* basis, except with respect to grant funds, if security arrangements are acceptable to RUS.

(iii) Applicants must submit a certification that their prior lender or lienholder on any Awardee assets has already agreed to sign the RUS' standard intercreditor agreement or co-mortgage found on the Agency's web page.

(iv) RUS will not share a lien position on assets with any related party or affiliate of the Awardee.

(2) For Tribal entities and municipalities, RUS will develop appropriate security arrangements.

(3) Unless otherwise approved by RUS in writing, all property and facilities purchased with award funds must be owned by the Awardee.

(b) *Grant security.* The grant portion of the award must also be adequately secured, as determined by RUS.

(1) The government must be provided an exclusive first lien on all grant funded assets during the service obligation of the grant, and thereafter any sale or disposition of grant assets must comply with the Uniform Administrative Requirements, Cost

Principles, and Audit Requirements for Federal Awards, codified in 2 CFR part 200. Note that this part will apply to ALL grant funds of an Awardee, regardless of the entity status or type of organization.

(2) All Awardees must repay the grant if the project is sold or transferred without receiving written approval from RUS during the service obligation of the grant.

(c) *Substitution of Collateral and Irrevocable Letter of Credit*—(1) *Loans and combination loan and grant.* The Agency's standard loan/grant documents require that applicants pledge all assets and revenues of their operations as collateral. Applicants may propose other forms of collateral as long as the amount of the collateral is equal to the full amount of the loan. The collateral must be pledged to the Agency. Acceptable forms of substitute collateral are limited to following: Certificates of Deposit, with the Agency named as the beneficiary on the certificate, or Bonds with a AAA rating from an accredited rating agency. All other conditions of the standard loan documents will apply. A copy of the Substitution Documents can be found on the Agency's web page.

(2) *Grants.* For grant-only applications, applicants may request that standard grant security arrangements be replaced with an Irrevocable Letter of Credit (ILOC), to ensure that the project is completed. The ILOC must be for the full amount of funding requested and must remain in place until project completion. If an ILOC is offered as security, applicants will not be required to provide financial projections, meet any financial ratios requirements as part of the application process, or submit the maps for their NFSAs. Although the ILOC will replace security for the grant security arrangements, all other requirements of the standard grant agreement will remain the same. A copy of the ILOC award documents can be found on the Agency's web page.

§ 1740.45 Advance of funds.

RUS loan and grant advances are made at the request of the Awardee according to the procedures stipulated in the Award Documents. All non-RUS funds, to include matching funds and cash provided in lieu of RUS loan funds, must be expended first, followed by loan funds and then grant funds, except for RUS-approved pre-application expenses. RUS may modify this requirement in the **Federal Register** or applicable funding opportunity notice. Grant funds, if any, will be used for eligible preapplication expenses only on the first advance request. Applications that do not account for such advance procedures in the pro forma five-year forecast may be rejected.

§ 1740.46 Buy American requirement.

Awardees shall use in connection with the expenditure of loan and grant funds only such unmanufactured articles, materials, and supplies, as have been mined or produced in the United States or in any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or in any eligible country, substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States or in any eligible country. For purposes of this section, an ''eligible country'' is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative. The Buy American regulations may be found at, and any requests for waiver must be submitted pursuant to, 7 CFR part 1787.

§§ 1740.47–1740.58 [Reserved]

Subpart E—Application Submission and Evaluation

§ 1740.59 Application submission.

(a) Applications must be submitted through the Agency's online application system.

(b) The Agency may publish additional application submission requirements in a notice in the **Federal Register**.

(c) Unless otherwise identified in the notice, applicants can only submit one application under any funding window.

§ 1740.60 Elements of a complete application.

(a) *Online application system.* All applications under this regulation must be submitted through the RUS Online Application System located on the Agency's web page. Additional information can be found in the Application Guide found on the Agency's web page.

(b) *Dun and Bradstreet Universal Numbering System (DUNS) Number.* All applicants must register for a DUNS number, or other Government non-proprietary identifier as part of the application process. The applicant can obtain the DUNS number free of charge by calling Dun and Bradstreet. Go to *https://fedgov.dnb.com/webform* for more information on assignment of a DUNS number or confirmation. DUNS numbers of parent or affiliated operations cannot be substituted for the applicant. If a DUNS number is not provided, the application cannot be considered for an award.

(c) *System for Award Management (SAM).* Prior to submitting an application, the applicant must also register in SAM at *https://www.sam.gov/SAM/* and supply a Commercial and Government Entity (CAGE) Code number as part of the application. SAM registration must be active with current data at all times, from the application review throughout the active Federal award funding period. To maintain active SAM registration, the applicant must review and update the information in the SAM database annually from the date of initial registration or from the date of the last update. The applicant must ensure that the information in the database is current, accurate, and complete. If the CAGE Code of the applicant is not included in the application, the application will not be considered for an award.

(d) *Contents of the application.* A complete application will include the following information as requested in the RUS Online Application System and application guide:

(1) General information on the applicant and the project including:

(i) A description of the project, that will be made public, consistent with the requirements herein; and

(ii) The estimated dollar amount of the funding request.

(2) An executive summary that includes, but is not be limited to, a detailed description of existing operations, discussion about key management, description of the workforce, description of interactions between any parent, affiliated or subsidiary operation, a detailed description of the proposed project, and the source of the matching and other funds;

(3) A description of the PFSA including the number of premises passed;

(4) Subscriber projections including the number of subscribers for broadband, video and voice services and any other service that may be offered. A description of the proposed service offerings and the associated pricing plan that the applicant proposes to offer;

(5) A map, utilizing the RUS mapping tool located on the Agency's web page, of the PFSAs identifying the areas without sufficient access to broadband and any NFSA of the applicant. If an applicant has multiple NFSAs, they can elect to submit each NFSA individually or they can submit them as a single file through the mapping tool;

(6) A description of the advertised prices of service offerings by competitors in the same area;

(7) A network design and all supporting information as detailed in § 1740.64.

(8) Resumes of key management personnel, a description of the organization's readiness to manage a broadband services network, and an organizational chart showing all parent organizations and/or holding companies (including parents of parents, etc.), and all subsidiaries and affiliates;

(9) A legal opinion that:

(i) Addresses the applicant's ability to enter into the award documents;

(ii) Describes all material pending litigation matters;

(iii) Addresses the applicant's ability to pledge security as required by the award documents; and

(iv) Addresses the applicant's ability to provide broadband service under state or tribal law.

(10) Summary and itemized budgets of the infrastructure costs of the proposed project, including if applicable, the ratio of loans to grants, and any other sources of outside funding. The summary must also detail the amount of matching and other funds and the source of these funds. If the matching and other funds are coming from a third party, a commitment letter and support that the funds are available must also be submitted. Matching and other funds must be deposited into the RUS Pledged Deposit Account at the closing of the award;

(11) A detailed description of working capital requirements and the sources of those funds;

(12) Unqualified, comparative audited financial statements for the previous calendar year from the date the application is submitted as detailed in § 1740.63;

(13) The historical and projected financial information required in § 1740.63;

(14) All information and attachments required in the RUS Online application system;

(15) A scoring sheet, analyzing any scoring criteria set forth in the funding announcement opening the application window;

(16) A list of all the applicant's outstanding and contingent obligations as required in § 1740.63;

(17) All environmental information as required by § 1740.27;

(18) Certification from the applicant that agreements with, or obligations to, investors do not breach the obligations to the government under the standard Award Documents located on the Agency's web page, especially distribution requirements, and that any such agreements will be amended so that such obligations are made contingent to compliance with the Award Documents. Such certification should also specifically identify which, if any, provisions would need to be amended;

(19) If service is being proposed on tribal land, a certification from the proper tribal official that they are in support of the project and will allow construction to take place on tribal land. The certification must:

(i) Include a description of the land proposed for use as part of the proposed project;

(ii) Identify whether the land is owned, held in Trust, land held in fee simple by the Tribe, or land under a long-term lease by the Tribe;

(iii) If owned, identify the landowner; and

(iv) Provide a commitment in writing from the landowner authorizing the applicant's use of that land for the proposed project; and

(20) Additional items that may be required by the Administrator through a notice in the **Federal Register**.

(e) *Material representations.* The application, including certifications, and all forms submitted as part of the application will be treated as material representations upon which RUS will rely in awarding grants and loans.

§ 1740.61 Evaluation for technical and financial feasibility.

(a) A project is financially feasible when the applicant demonstrates to the satisfaction of RUS that it will be able to generate sufficient revenues to cover expenses; will have sufficient cash flow to service all debts and obligations as they come due; will have a positive ending cash balance as reflected on the cash flow statement for each year of the forecast period; and, by the end of the forecast period, will meet at least two of the following requirements: A minimum TIER requirement of 1.2, a minimum DSCR requirement of 1.2, and a minimum current ratio of 1.2. In addition, applicants must demonstrate positive cash flow from operations at the end of the forecast period.

(b) For any funding option that includes grant funds, evaluation criteria for scoring the application will be included in the **Federal Register** notice that opens an application window. Grant applications submitted for a certain category will be ranked and awarded based only on those applications included in that category.

(c) The Agency will determine technical feasibility by evaluating the Applicant's network design and other relevant information in the application.

§ 1740.62 Evaluation of Awardee operations.

(a) RUS may send a team to the awardee's facilities to complete a Management Analysis Profile (MAP) of the entire operation. MAPs are used by RUS as a means of evaluating an Awardee's strengths and weaknesses and ensuring that awardees are prepared to fulfil the terms of the award. Once an applicant accepts an award offer, RUS may schedule a site visit as soon as possible.

(b) RUS reserves the right not to advance funds until the MAP has been completed. If the MAP identifies issues that can affect the operation and completion of the project, those issues must be addressed to the satisfaction of RUS before funds can be advanced. Funding may be rescinded if following a MAP, the agency determines that the awardee will be unable to meet the requirements of the award.

§ 1740.63 Financial information.

(a) The Applicant must submit financial information acceptable to the Agency that demonstrates that the Applicant has the financial capacity to fulfill the grant, loan, and loan/grant combination requirements in this part and to successfully complete the proposed project.

(1) Applicants must submit unqualified, comparative, audited financial statements for the previous year from the date the application is submitted. If an application is submitted and the most recent year-end audit has not been completed, the applicant can submit the previous unqualified audit that has been completed. If qualified audits containing a disclaimer or adverse opinion are submitted, the application will not be considered.

(i) An applicant can use the consolidated audit of a parent as long as the parent fully guarantees the loan, or in the case of a grant, guarantees that construction will be completed as approved in the application or will repay the grant to RUS.

(ii) If the applicant has more than one parent, then each parent's audits must be submitted, and each parent must fully guarantee the award.

(iii) For governmental entities, financial statements must be accompanied with certifications as to unrestricted cash that may be available on a yearly basis to the applicant.

(2) Applicants must provide detailed information for all outstanding and contingent obligations. Copies of existing notes, loan and security

agreements, guarantees, any existing management or service agreements, and any other agreements with parents, subsidiaries and affiliates, including but not limited to debt instruments that use the applicant's assets, revenues or stock as collateral must be included in the application.

(3) Applicants must provide evidence of all funding, other than the RUS award, necessary to support the project, such as bank account statements, firm letters of commitment from equity participants, or outside loans, which must evidence the timely availability of funds. If outside loans are used to cover any matching requirement, they may only be secured by assets other than those used for collateral under this regulation. Equity partners that are not specifically identified by name will not be considered in the financial analysis of the application. If the application states that other funds are required for the broadband project in addition to the Program funding requested, evidence must be included in the application identifying the source of funds and when the funds will be available. If the additional funding is not clearly identified, the application may not be considered for an award. If the applicant is providing non-telecommunication services and is proposing expansion to those services and states that additional funds are required to support sustainability of the overall operation of the applicant, then evidence must be submitted supporting the availability of these funds or the application may not be considered for funding.

(4) Historical financial statements for the last four years consisting of a balance sheet, income statement, and cash flow statement must be provided. If an entity has not been operating for four years, historical statements for the period of time the entity has been operating are acceptable.

(5) Pro Forma financial analysis prepared in conformity with GAAP and the Agency's guidance on grant accounting can be found at *https://www.rd.usda.gov/files/AccountingGuidance10.pdf.* The Pro Forma should validate the sustainability of the project by including subscriber estimates related to all proposed service offerings; annual financial projections with balance sheets, income statements, and cash flow statements; supporting assumptions for a five-year forecast period and a depreciation schedule for existing facilities, those facilities funded with federal assistance, matching funds, and other funds. This pro forma should indicate the committed sources of capital funding and include a bridge year prior to the start of the forecast period. This bridge year shall be used as a buffer between the historical financial information and the forecast period and is the year in which the application is submitted.

(i) The financial projections must demonstrate that by the end of the forecast period, the project will meet at least two of the requirements described in § 1740.61(a).

(ii) The financial projections must also demonstrate positive cash flow from operations at the end of the forecast period.

(iii) Based on the financial evaluation, additional conditions may be added to the Award documents to ensure financial feasibility and security on the award.

(b) Publicly traded companies that have a bond rating from Moody's, Standard and Poor's, or Fitch of Investment Grade at the time an application is submitted do not have to complete the pro forma financial projections. In addition, applicants with this classification that elect not to submit financial projections do not need to submit NFSAs.

§ 1740.64 Network design.

(a) Only projects that RUS determines to be technically feasible will be eligible for an award.

(b) The network design must include a description of the proposed technology used to deliver the broadband service, demonstrating that all premises in the PFSA can be offered broadband service; a network diagram, identifying cable routes, wireless access points, and any other equipment required to operate the network; a buildout timeline and milestones for implementation of the project; and a capital investment schedule showing that the system can be built within five years. All of these items must be certified by a professional engineer who is certified in at least one of the states where there is or will be project construction. The certification from the professional engineer must clearly state that the proposed network can deliver the broadband service to all premises in the PFSA at the minimum required service level. In addition, a list of all required licenses and regulatory approvals needed for the proposed project and how much the applicant will rely on contractors or vendors to deploy the network facilities must be submitted. Note that in preparing budget costs for equipment and materials, RUS' Buy American requirements apply, as referenced in § 1740.46.

§§ 1740.65–1740.76 [Reserved]

Subpart F—Closing, Servicing and Reporting

§ 1740.77 Offer and closing.

Successful applicants will receive an offer letter and award documents from RUS following award notification. Applicants may view sample award documents on the Agency's web page.

§ 1740.78 Construction.

(a) All project assets must comply with 7 CFR part 1788 and 7 CFR part 1970, the Program Construction Procedures located on the Agency's web page, any successor regulations found on the agency's website, and any other guidance from the Agency.

(b) The build-out of the project must be completed within five years from the date funds are made available. Build-out is considered complete when the network design has been fully implemented, the service operations and management systems infrastructure is operational, and the awardee is ready to support the activation and commissioning of individual customers to the new system.

§ 1740.79 Servicing of grants, loans and loan/grant combinations.

(a) Awardees must make payments on the loan as required in the note and Award Documents.

(b) Awardees must comply with all terms, conditions, affirmative covenants, and negative covenants contained in the Award Documents.

(c) The sale or lease of any portion of the Awardee's facilities must be approved in writing by RUS prior to initiating the sale or lease.

§ 1740.80 Accounting, monitoring, and reporting requirements.

(a) Awardees must adopt a system of accounts for maintaining financial records acceptable to the Agency, as described in 7 CFR part 1770, subpart B.

(b) Awardees must submit annual comparable audited financial statements along with a report on compliance and on internal control over financial reporting, and management letter in accordance with the requirements of 7 CFR part 1773 using the RUS' on-line reporting system. The Certified Public Accountant (CPA) conducting the annual audit is selected by the borrower and must be satisfactory to RUS as set forth in 7 CFR 1773, subpart B, ''RUS Audit Requirements.''

(c) Thirty (30) calendar days after the end of each calendar year quarter, Awardees must submit to RUS, balance sheets, income statements, statements of cash flow, rate package summaries, and

the number of customers taking broadband service on a per community basis utilizing RUS' on-line reporting system. These reports must be submitted throughout the loan amortization period or for the economic life of the facilities funded with a grant.

(d) Awardees will be required to submit annually updated service area maps through the RUS mapping tool showing the areas where construction has been completed and premises are receiving service until the entire PFSA can receive the broadband service. At the end of the project, Awardees must submit a service area map indicating that all construction has been completed as proposed in the application. If parts of the PFSA have not been constructed, RUS may require a portion of the award to be rescinded or paid back.

(e) Awardees must comply with all reasonable Agency requests to support ongoing monitoring efforts. The Awardee shall afford RUS, through its representatives, reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect: The Broadband System, any other property encumbered by the Award Documents, any and all books, records, accounts, invoices, contracts, leases, payrolls, timesheets, cancelled checks, statements, and other documents (electronic or paper, of every kind) belonging to or in the possession of the Awardee or in any way pertaining to its property or business, including its subsidiaries, if any, and to make copies or extracts thereof.

(f) Awardee records shall be retained and preserved in accordance with the provisions of 7 CFR part 1770, subpart A.

(g) Awardees receiving assistance under this part will be required to submit annual reports for three (3) years after the completion of construction. The reports must include the following information:

(1) Existing network service improvements and facility upgrades, as well as new equipment and capacity enhancements that support high-speed broadband access for educational institutions, health care providers, and public safety service providers;

(2) The estimated number of end users who are currently using or forecasted to use the new or upgraded infrastructure;

(3) The progress towards fulfilling the objectives for which the assistance was granted;

(4) The number and geospatial location of residences and businesses that will receive new broadband service;

(5) The speed and price of the Awardee's broadband service offerings; and

(6) The average price of broadband service in the Project's service area.

§ 1740.81 Default and de-obligation.

RUS reserves the right to deobligate awards to Awardees under this part that demonstrate an insufficient level of performance, wasteful or fraudulent spending, or noncompliance with environmental and historic preservation requirements.

§§ 1740.82–1740.93 [Reserved]

Subpart G—Other Information and Federal Requirements

§ 1740.94 Confidentiality of Applicant information.

Applicants are encouraged to identify and label any confidential and proprietary information contained in their applications. The Agency will protect confidential and proprietary information from public disclosure to the fullest extent authorized by applicable law, including the Freedom of Information Act, as amended (5 U.S.C. 552), the Trade Secrets Act, as amended (18 U.S.C. 1905), the Economic Espionage Act of 1996 (18 U.S.C. 1831 *et seq.*), and CALEA (47 U.S.C. 1001 *et seq.*). Applicants should be aware, however, that this program requires substantial transparency. For example, RUS is required to make publicly available on the internet a list of each entity that has applied for a loan or grant, a description of each application, the status of each application, the name of each entity receiving funds, and the purpose for which the entity is receiving the funds.

§ 1740.95 Compliance with applicable laws.

Any recipient of funds under this regulation shall be required to comply with all applicable federal, tribal and state laws, including but not limited to:

(a) The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 *et seq.*);

(b) The Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR subpart 101–19.6); and

(c) All applicable federal, tribal and state communications laws and regulations, including, for example, the Communications Act of 1934, as amended, (47 U.S.C. 151 *et seq.*) the Telecommunications Act of 1996, as amended (Pub. L. 104–104, 110 Stat. 56 (1996), and CALEA. For further information, *see http://www.fcc.gov.*

§§ 1740.96–1740.99 [Reserved]

§ 1740.100 OMB control number.

The information collection requirements in this part are approved by the Office of Management and Budget (OMB) and assigned OMB control number 0572–0152.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2021–03443 Filed 2–25–21; 8:45 am]

BILLING CODE 3410–15–P

FEDERAL RESERVE SYSTEM

12 CFR Part 231

[Regulation EE; Docket No. R–1661]

RIN 7100–AF 48

Netting Eligibility for Financial Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors (Board) is publishing a final rule that amends Regulation EE to include additional entities in the definition of ''financial institution'' contained in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) so that they are covered by FDICIA's netting protections. The final rule also clarifies certain aspects of the existing activities-based test in Regulation EE.

DATES: The final rule is effective March 29, 2021.

FOR FURTHER INFORMATION CONTACT: Evan Winerman, Senior Counsel (202–872–7578), Legal Division. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 401–407 of FDICIA [1] provide certainty that netting contracts will be enforced, even in the event of the insolvency of one of the parties. These netting provisions apply to bilateral netting contracts between two financial institutions and multilateral netting contracts among members of a clearing organization.[2] FDICIA defines ''financial

[1] Public Law 102–242; 105 Stat. 2236, 2372–3; 12 U.S.C. 4401–4407.

[2] FDICIA section 402(2) generally defines ''clearing organization'' to include entities that provide clearing, netting, and settlement services to their members and in which all members of the entity are themselves financial institutions or clearing organizations. However, certain entities qualify as clearing organizations under FDICIA section 402(2)—and are therefore eligible for the multilateral netting protections under FDICIA section 404—without regard to whether all of their members qualify as financial institutions or clearing organizations. Specifically, an entity automatically qualifies as a clearing organization if it is (1) registered with the Securities and Exchange

institution'' as a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board.

Regulation EE expands the FDICIA definition of ''financial institution''—and therefore expands FDICIA's netting protections—using an activities-based test that includes a qualitative component and a quantitative component. The qualitative component requires that the person ''represent, orally or in writing, that it will engage in financial contracts as a counterparty on both sides of one or more financial markets.'' [3] A person that makes this representation demonstrates that it is willing to engage in transactions on both sides of the market and is, in effect, holding itself out as a market intermediary.[4] The quantitative component requires that the person have either (1) one or more financial contracts of a total gross dollar value of at least $1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates or (2) total gross mark-to-market positions of at least $100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period with counterparties that are not its affiliates.[5]

On May 2, 2019, consistent with the purposes of FDICIA's netting provisions, and in order to reduce systemic risk and increase efficiency in the financial markets, the Board proposed to amend Regulation EE to include additional categories of entities in the definition of financial institution.[6] The Board also proposed to clarify certain aspects of Regulation EE's existing activities-based test for qualifying as a financial institution.

II. Public Comments

The Board received five responsive comments from private-sector financial institutions, industry associations, and an international organization. Commenters supported the proposed revisions to Regulation EE and, in some cases, suggested additional revisions. Several commenters suggested that the Board extend the financial institution definition to additional categories of entities. One commenter suggested that the Board make two minor clarifications related to the proposed changes to the activities-based test.

A. Qualification as a Financial Institution Based on Type of Entity

The Board is amending Regulation EE to include in the definition of financial institution the entities identified in the proposal. Additionally, the Board is including two other categories of entities, as well as the Bank for International Settlements (BIS), in the definition of financial institution.

The Board proposed to define the following entities as financial institutions: Swap dealers and security-based swap dealers; [7] major swap participants (MSPs) and major security-based swap participants (MSBSPs); [8] nonbank financial companies that the Financial Stability Oversight Council (FSOC) has determined shall be supervised by the Board and subject to prudential standards (nonbank systemically important financial institutions, or SIFIs); [9] derivatives clearing organizations (DCOs) that are registered with the CFTC or have been exempted from registration by the CFTC; [10] clearing agencies that are registered with the SEC or have been exempted from registration by the SEC; [11] financial market utilities that the FSOC has designated as, or as likely to become, systemically important (designated financial market utilities, or DFMUs); [12] foreign banks as defined in the International Banking Act; [13] bridge institutions established for the purpose of resolving financial institutions; and Federal Reserve Banks. Commenters supported extending the financial institution definition to the entities identified in the proposal.

The Board believes that adding these entities to the definition of financial institution would promote the purposes of FDICIA's netting provisions—namely to reduce systemic risk and increase efficiency in the financial markets. The Board recognizes that Congress has imposed or expanded federal supervision and regulation for many of these entities since the Board first promulgated Regulation EE. In subjecting these entities to higher levels of regulation and supervision due to their activities, transaction volumes, and risks presented to the financial markets, Congress indicated the importance of the smooth functioning of these entities to the financial markets. Accordingly, the Board is finalizing its proposal to extend the financial institution definition to include swap dealers, security-based swap dealers, MSPs, MSBSPs, nonbank SIFIs, DCOs, clearing agencies, DFMUs, foreign banks, bridge institutions established for the purpose of resolving financial institutions, and Federal Reserve Banks.

The Board is also amending Regulation EE to define qualifying central counterparties (QCCPs), foreign central banks, and the BIS as financial institutions.

1. QCCPs

In the preamble to the proposed rule, the Board requested comment on whether it should include in the definition of financial institution an entity that is a QCCP under the Board's Regulation Q.[14] One industry association supported this addition.

The Board's Regulation Q establishes criteria for identifying QCCPs. Generally, a Board-supervised institution that clears financial transactions through a QCCP can receive preferential capital treatment for those transactions.[15] To qualify as a QCCP, an entity based outside the United States must generally (among other things) be subject to home-country risk-management standards that are comparable to those that apply to DFMUs.

As noted above, the Board is amending the definition of financial institution to include DCOs and clearing agencies that are registered with, or have been exempted from registration by, the CFTC or SEC. All domestic QCCPs and many foreign-based QCCPs are registered or exempt DCOs/clearing agencies. To ensure that all foreign-

Commission (SEC) as a clearing agency or has been exempted from registration by the SEC or (2) registered with the Commodity Futures Trading Commission (CFTC) as a derivatives clearing organization or has been exempted from registration by the CFTC.

[3] 12 CFR 231.3(a). Regulation EE generally defines the term ''financial contract'' by reference to the term ''qualified financial contract'' under section 11(e)(8)(D) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(e)(8)(D). 12 CFR 231.2(c).

[4] 59 FR 4780, 4782 (February 2, 1994).

[5] *Id.*

[6] 84 FR 18741 (May 2, 2019). FDICIA section 402(9) defines the term ''financial institution'' to include an enumerated list of entities and ''any other institution as determined by the Board of Governors of the Federal Reserve System.''

[7] *See* 7 U.S.C. 6s (swap dealer registration requirement) and 17 CFR 1.3 (swap dealer definition and de minimis thresholds); 15 U.S.C. 78o–10 (security-based swap dealer registration requirement) and 17 CFR 240.3a71–1 and 240.3a71–2 (security-based swap dealer definition and de minimis thresholds).

[8] *See* 7 U.S.C. 6s (MSP registration requirement) and 15 U.S.C. 78o–10 (MSBSP registration requirement).

[9] 12 U.S.C. 5323.

[10] *See* 7 U.S.C. 7a–1(a) and (h).

[11] *See* 15 U.S.C. 78q–1(b) and (k).

[12] 12 U.S.C. 5463.

[13] 12 U.S.C. 3101. As described in the proposal, the Board believes that foreign banks qualify as financial institutions under FDICIA's statutory definition.

[14] 12 CFR 217.2.

[15] Exposures to a QCCP are risk-weighted at either 2 or 4 percent (*see* 12 CFR 217.35(b)(3) and (c)(3)), whereas exposures to a CCP that is not a QCCP are risk-weighted based on the risk weight otherwise assignable to the CCP.

based QCCPs qualify as financial institutions for purposes of FDICIA's netting provisions, the Board is amending Regulation EE to extend the financial institution definition to QCCPs. The Board believes that defining QCCPs to be financial institutions would benefit financial markets that rely on FDICIA's netting provisions by ensuring that foreign-based QCCPs can participate in *other* financial market utilities that require participants to be financial institutions and that including QCCPs would meet the statutory objectives of reducing systemic risk and increasing efficiency in those financial markets. Additionally, the Board believes that it is appropriate to extend the financial institution definition to QCCPs because Regulation Q (1) establishes criteria for identifying QCCPs and (2) provides that an entity must meet heightened risk-management standards to qualify as a QCCP.

2. Foreign Central Banks

A private-sector financial institution and an international organization suggested that the Board include foreign central banks in the definition of financial institution. These commenters stated that foreign central banks are systemically important and that extending the financial institution definition to cover foreign central banks would reduce systemic risk and increase efficiency in the financial markets, consistent with the purpose of the proposal.

The Board understands that foreign central banks, like Federal Reserve Banks, may participate in financial markets through various types of transactions that are used to implement monetary policy. The Board believes that including foreign central banks categorically in the definition of financial institution may benefit financial markets that rely on FDICIA and would meet the statutory objectives of reducing systemic risk and increasing efficiency in those financial markets. Furthermore, given that the Board is amending Regulation EE to define Federal Reserve Banks as financial institutions, the Board believes that a parallel addition of foreign central banks would be appropriate. Accordingly, the Board is amending Regulation EE to define foreign central banks as financial institutions.

3. The BIS

Multiple commenters suggested that the Board include the BIS in the definition of financial institution. The BIS's shareholders are central banks and monetary authorities that are members of the BIS.[16] The BIS engages in financial contracts (*e.g.,* foreign exchange derivatives) to help central banks and other official monetary institutions manage their foreign exchange reserves.[17] Because the BIS engages in market-facing financial contracts and has characteristics similar to those of the Federal Reserve Banks and foreign central banks, the Board believes that the BIS should receive financial institution status, which is also being extended to the Federal Reserve Banks and foreign central banks. The Board believes that extending financial institution status to the BIS would meet the statutory objectives of reducing systemic risk and increasing efficiency in the financial markets. Accordingly, the Board is amending Regulation EE to define the BIS as a financial institution.

4. Other Categories of Entities

Two private-sector financial institutions and one international organization requested that the Board add the following categories of entities to the definition of financial institution: (i) Supranational institutions, such as multilateral development banks; (ii) foreign systemically important financial market infrastructures that are subject to the Principles for Financial Market Infrastructures [18] as implemented in their respective jurisdictions, and their operators; (iii) sovereign wealth funds; and (iv) electronic money institutions and payment institutions. The commenters did not provide detailed explanations for why the Board should extend financial institution status to these categories of entities.

As discussed above, the domestic and global landscape for financial regulation has changed dramatically since the Board promulgated Regulation EE. In particular, several types of entities are now subject to expanded federal supervision and regulation. In subjecting these types of entities to higher levels of regulation and supervision due to their activities, transaction volumes, and risks presented to the financial markets, Congress indicated the importance of the smooth functioning of these entities to the financial markets.

The Board is not extending the financial institution definition to include the four categories of entities suggested by commenters. It is not clear the extent to which these types of entities, as categories, are active in financial contract netting such that the smooth functioning of their netting contracts is important for reducing systemic risk within the U.S. banking system or financial markets. Additionally, it is not clear the extent to which some of these entities function as market intermediaries. The Board notes that some foreign systemically important financial market infrastructures may be captured by other newly-added categories in the definition of financial institution, including DCOs, clearing agencies, and QCCPs.

As the Board noted in the proposed rule, it has the authority to issue case-by-case determinations for individual entities seeking financial institution status. Further, while the Board is not categorically defining all of the entities described above as financial institutions, individual entities in these categories might independently qualify as financial institutions under Regulation EE's activities-based test.

B. Activities-Based Test

The quantitative component of the activities-based test requires that a person have either (1) one or more financial contracts of a total gross dollar value of at least $1 billion in notional principal amount outstanding on any day during the previous 15-month period with counterparties that are not its affiliates or (2) total gross mark-to-market positions of at least $100 million (aggregated across counterparties) in one or more financial contracts on any day during the previous 15-month period with counterparties that are not its affiliates.[19]

The Board proposed to clarify how the quantitative component of the activities-based test would apply following a consolidation of legal entities. Specifically, the Board proposed that, upon the consolidation of two or more entities, the surviving entity may aggregate the total gross dollar value of notional principal amounts outstanding or the total gross mark-to-market positions of both

[16] *See https://www.bis.org/about/index.htm.*

[17] *See https://www.bis.org/banking/finserv.htm.*

[18] *See https://www.bis.org/cpmi/publ/d101.htm.*

[19] 12 CFR 231.3(a). The Bankruptcy Code includes a test for identifying ''financial participants'' that is substantively identical to the quantitative test in Regulation EE. 11 U.S.C. 101(22A). Under the Bankruptcy Code, financial participants that enter into certain types of financial contracts and master netting agreements for those financial contracts are exempt from provisions of the Bankruptcy Code that might otherwise delay or prevent netting related to those contracts. *See, e.g.,* 11 U.S.C. 362(b)(6), (7), (17), and (27) (specifying that the Bankruptcy Code's automatic stay does not prevent a financial participant from exercising a contractual right to, inter alia, ''offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with'' certain types of financial contracts and master netting agreements for those financial contracts).

entities on each calendar day during the previous 15-month period, and such total amounts would be used to determine whether the surviving entity meets the quantitative thresholds of the activities-based test. The Board did not receive any responsive comments on this clarification and is adopting the clarification as proposed.

The Board also proposed to add language to clarify, consistent with its current understanding, that the ''previous 15-month period'' described in the activities-based test includes the day on which a person evaluates whether it meets the relevant thresholds in the quantitative component of the activities-based test. Specifically, the Board proposed to add the words ''at such time'' to proposed §§ 231.3(a)(1) and (a)(2) to clarify that a person can qualify as a financial institution under the activities-based test if (1) the person's positions exceeded one of the quantitative threshold on any prior day within the previous 15-month period *or* (2) the person's positions exceed one of the quantitative thresholds on the day the person evaluates its status as a financial institution. One commenter requested that the Board confirm that the proposed clarification is not intended to modify the settled understanding that the ''previous 15-month period'' includes the day on which a party evaluates its status as a financial institution. The Board is adopting the proposed clarification, and confirms that a person can qualify as a financial institution under the activities-based test if the person's positions exceed one of the quantitative thresholds on the day the person evaluates its status as a financial institution.

A commenter also requested clarification that satisfying the qualitative component of the activities-based test (which requires that a person ''represent[ ], orally or in writing, that it will engage in financial contracts as a counterparty on both sides of one or more financial markets'') [20] does not affect a person's regulatory status for any other purpose. The Board confirms that satisfying the qualitative component of the activities-based test does not affect a person's regulatory status for any other purpose.

[20] 12 CFR 231.3(a). Regulation EE generally defines the term ''financial contract'' by reference to the term ''qualified financial contract'' under section 11(e)(8)(D) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(e)(8)(D). 12 CFR 231.2(c).

IV. Regulatory Analysis

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number. The Board reviewed the final rule under the authority delegated to the Board by the OMB and determined that it contains no collections of information under the PRA.[21] Accordingly, there is no paperwork burden associated with the rule.

B. Regulatory Flexibility Act

In accordance with section 4 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* the Board is publishing a final regulatory flexibility analysis for the final rule. The RFA generally requires an agency to assess the impact a rule is expected to have on small entities. The RFA requires an agency either to provide a regulatory flexibility analysis or to certify that the final rule will not have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has adopted small entity size standards which generally provide that financial entities are ''small entities'' only if they have (1) at most, $41.5 million or less in annual receipts or (2) for depository institutions and credit card issuers, $600 million or less in assets.[22]

The Board did not receive any comments on its initial regulatory flexibility analysis. The Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The final rule extends the ''financial institution'' definition to swap dealers, security-based swap dealers, MSPs, MSBSPs, DCOs, clearing agencies, QCCPs, bridge institutions, Federal Reserve Banks, foreign central banks, and the BIS.[23]

The Board has previously determined that designated financial market utilities are not small entities; [24] the CFTC has previously determined that swap dealers, MSPs, and DCOs are not small entities; [25] and the SEC has previously determined that security-based swap dealers, MSBSPs, and clearing agencies are not small entities.[26] The Federal Reserve Banks are not small entities.[27] Similarly, the Board does not believe that foreign central banks or the BIS would be small entities. All domestic QCCPs are registered as DCOs and/or clearing agencies and, accordingly, are not small entities. Certain foreign-based QCCPs are not registered as DCOs or clearing agencies, but these foreign-based QCCPs function similarly to DCOs and clearing agencies and—like DCOs and clearing agencies—are unlikely to be small entities.

Similarly, a bridge financial company would not be a small entity.[28] Under U.S. law, the Federal Deposit Insurance Corporation (FDIC) can establish a bridge financial company when it acts as receiver for a failing financial company. In order for the FDIC to be appointed as receiver for a financial company, the Secretary of the Treasury must determine that, *inter alia,* ''the failure of the financial company and its resolution under otherwise applicable Federal or State law would have serious adverse effects on financial stability in the United States.'' [29] The failure of a financial company that is a ''small entity'' would not affect financial stability in the United States.[30] Accordingly, the FDIC would not act as receiver—and would not form a bridge financial company—for a small entity. It is therefore unlikely that a bridge financial company would be a small entity. Similarly, it is unlikely that a foreign bridge institution established to facilitate the resolution of a foreign

[21] See 44 U.S.C. 3502(3).

[22] 13 CFR 121.201, sector 52 (SBA small entity size standards for finance and insurance entities).

[23] As explained above, the final rule also codifies the Board's existing view that foreign banks are financial institutions.

[24] 79 FR 65543, 65556 (Nov. 5, 2014).

[25] *See, e.g.,* 81 FR 80563, 80565 (Nov. 16, 2016); 76 FR 69334, 69428 (Nov. 8, 2011).

[26] *See, e.g.,* 81 FR 29959, 30142 (May 3, 2016); 81 FR 70744, 70784 (Oct. 13, 2016).

[27] None of the industry codes in the SBA's small entity size standards necessarily apply to the Federal Reserve Banks *per se,* but the SBA's size standards for commercial depository institutions are instructive. Generally, the SBA's size standards provide that depository institutions are small entities if they have $600 million or less in assets. 13 CFR 121.201, sector 52. Each of the Federal Reserve Banks holds significantly more than $600 million in assets. *See* the Statement of Condition of Each Federal Reserve Bank, *https://www.federalreserve.gov/releases/h41/current/h41.htm#h41tab10a.*

[28] A bridge depository institution might be a small entity, but this final rule would not affect the status of bridge depository institutions under FDICIA because (as noted above) such institutions qualify as ''financial institutions'' under FDICIA's statutory definition.

[29] 12 U.S.C. 5383(b)(2).

[30] *See* 13 CFR 121.201, sector 52 (Small Business Administration small entity size standards for finance and insurance entities), which generally provides that financial entities are ''small entities'' only if they have (1) at most, $41.5 million or less in annual receipts or (2) for depository institutions and credit card issuers, $600 million or less in assets.

nonbank financial institution would be a small entity.

Foreign banks (including bridge banks) are already covered by FDICIA's statutory definition of financial institution. Accordingly, while this final rule clarifies that foreign banks are financial institutions, it will not have any economic impact on foreign banks.

List of Subjects in 12 CFR Part 231

Banks, Banking, Financial institutions, Netting.

For the reasons set forth in the preamble, the Board amends Regulation EE, 12 CFR part 231, as follows:

PART 231—NETTING ELIGIBILITY FOR FINANCIAL INSTITUTIONS (REGULATION EE)

■ 1. The authority citation for part 231 continues to read as follows:

Authority: 12 U.S.C. 4402(1)(B) and 4402(9).

■ 2. In § 231.2, redesignate paragraphs (c) through (f) as paragraphs (d) through (g), and add new paragraph (c) to read as follows:

§ 231.2 Definitions.

* * * * *

(c) Bridge institution means a legal entity that has been established by a governmental authority to take over, transfer, or continue operating critical functions and viable operations of an entity in resolution. A bridge institution could include a bridge depository institution or a bridge financial company organized by the Federal Deposit Insurance Corporation in accordance with 12 U.S.C. 1821(n) or 5390(h), respectively, or a similar entity organized under foreign law.

■ 3. Amend § 231.3 by:

■ a. Revising paragraph (a);

■ b. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d);

■ c. Adding new paragraphs (b) and (e).

The revision and additions read as follows:

§ 231.3 Qualification as a financial institution.

(a) A person qualifies as a financial institution for purposes of sections 401–407 of the Act if it represents, orally or in writing, that it will engage in financial contracts as a counterparty on both sides of one or more financial markets and either—

(1) Had one or more financial contracts of a total gross dollar value of at least $1 billion in notional principal amount outstanding at such time or on any day during the previous 15-month period with counterparties that are not its affiliates; or

(2) Had total gross mark-to-market positions of at least $100 million (aggregated across counterparties) in one or more financial contracts at such time or on any day during the previous 15-month period with counterparties that are not its affiliates.

(b) After two or more persons consolidate, such as through a merger or acquisition, the surviving person meets the quantitative thresholds under paragraphs (a)(1) and (a)(2) if, on the same, single calendar day during the previous 15-month period, the aggregate financial contracts of the consolidated persons would have met such quantitative thresholds.

* * * * *

(e) A person qualifies as a financial institution for purposes of sections 401–407 of the Act if it is—

(1) A swap dealer or major swap participant registered with the Commodity Futures Trading Commission pursuant to section 4s of the Commodity Exchange Act (7 U.S.C. 6s);

(2) A security-based swap dealer or major security-based swap participant registered with the U.S. Securities and Exchange Commission pursuant to section 15F of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10);

(3) A derivatives clearing organization registered with the Commodity Futures Trading Commission pursuant to section 5b(a) of the Commodity Exchange Act (7 U.S.C. 7a–1(a)) or a derivatives clearing organization that the Commodity Futures Trading Commission has exempted from registration by rule or order pursuant to section 5b(h) of the Commodity Exchange Act (7 U.S.C. 7a–1(h));

(4) A clearing agency registered with the U.S. Securities and Exchange Commission pursuant to section 17A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(b)) or a clearing agency that the U.S. Securities and Exchange Commission has exempted from registration by rule or order pursuant to section 17A(k) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(k));

(5) A financial market utility that the Financial Stability Oversight Council has designated as, or as likely to become, systemically important pursuant to 12 U.S.C. 5463;

(6) A qualifying central counterparty under 12 CFR 217.2;

(7) A nonbank financial company that the Financial Stability Oversight Council has determined shall be supervised by the Board and subject to prudential standards, pursuant to 12 U.S.C. 5323;

(8) A foreign bank as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101), including a foreign bridge bank;

(9) A bridge institution established for the purpose of resolving a financial institution;

(10) A Federal Reserve Bank or a foreign central bank; or

(11) The Bank for International Settlements.

By order of the Board of Governors of the Federal Reserve System, February 17, 2021.

Ann Misback,

Secretary of the Board.

[FR Doc. 2021–03596 Filed 2–25–21; 8:45 am]

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FEDERAL RESERVE SYSTEM

12 CFR Part 272

Federal Open Market Committee; Rules of Procedure

AGENCY: Federal Open Market Committee.

ACTION: Final rule.

SUMMARY: The Federal Open Market Committee is amending its Rules of Procedure to replace the terms ''Chairman'' and ''Vice Chairman'' with ''Chair'' and Vice Chair,'' respectively.

DATES: Effective February 26, 2021.

FOR FURTHER INFORMATION CONTACT: Matthew Luecke, Deputy Secretary of the Federal Open Market Committee, (202) 452–2576, 20th and C Streets NW, Washington, DC 20551; or Alye S. Foster, Deputy Associate General Counsel (202–452–5289), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: The Federal Open Market Committee (Committee) is replacing the references in its Rules of Procedure to ''Chairman'' and ''Vice Chairman,'' with the gender-neutral equivalent terms of ''Chair'' and ''Vice Chair''. Although the terms ''Chairman'' and ''Vice Chairman'' are referenced in the Federal Reserve Act, traditionally these terms have been used to refer to persons regardless of gender. As the terms are not intended to be and, in practice, are not gender-specific, the Committee is replacing of the terms ''Chairman'' and ''Vice Chairman'' in the Committee's Rules of Procedure with their gender-neutral equivalents of ''Chair'' and ''Vice Chair,'' respectively. This change also aligns the Committee's Rules of Procedure with its practice.

Because the amended rule relates solely to the internal organization, procedure, or practice of the Committee, the public notice, public comment, and

delayed effective date provisions of the Administrative Procedure Act do not apply to the amended rule. *See* 5 U.S.C. 553(b) and (d). Because public notice and comment is not required, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* also does not apply to the amended rule.

Authority and Issuance

For the reasons set forth in the **SUPPLEMENTARY INFORMATION**, the Federal Open Market Committee amends 12 CFR part 272 to read as follows:

PART 272—RULES OF PROCEDURE

■ 1. The authority citation for part 272 continues to read as follows:

Authority: 5 U.S.C. 552.

PART 272—[AMENDED]

■ 2. In part 272, revise all references to ''Chairman'' and ''Vice Chairman'' to read ''Chair'' and ''Vice Chair'', respectively.

By order of the Federal Open Market Committee.

Matthew M. Luecke,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 2021–04039 Filed 2–25–21; 8:45 am]

BILLING CODE 6210–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

Public Statement on General QM and Seasoned QM Final Rules

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Public statement; status of published final rules.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) has released a public statement regarding the mandatory compliance date of the Bureau's General QM Final Rule and possible reconsideration of the General QM Final Rule and the Seasoned QM Final Rule.

DATES: The public statement was released on the Bureau's website on February 23, 2021.

FOR FURTHER INFORMATION CONTACT: Ben Cady, Mark Morelli, Amanda Quester, or Jane Raso, Senior Counsels, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: On December 10, 2020, the Bureau issued two final rules relating to the qualified mortgage (QM) definition under the Truth in Lending Act: A final rule entitled ''Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z): General QM Loan Definition'' (General QM Final Rule) and a final rule entitled ''Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z): Seasoned QM Loan Definition'' (Seasoned QM Final Rule).[1] March 1, 2021, is the effective date of both the General QM Final Rule and the Seasoned QM Final Rule. The Bureau also established a mandatory compliance date for the General QM Final Rule of July 1, 2021.

Another category of QMs currently available under Regulation Z consists of loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation (collectively, the GSEs), while operating under the conservatorship or receivership of the Federal Housing Finance Agency (FHFA) (Temporary GSE QM loan definition). Pursuant to a final rule issued on October 20, 2020, the Temporary GSE QM loan definition is scheduled to expire on (1) the mandatory compliance date of the General QM Final Rule or (2) with respect to each GSE when that GSE ceases to operate under the conservatorship of FHFA, whichever happens earlier.[2]

The Bureau is considering whether to initiate a rulemaking to revisit the Seasoned QM Final Rule. If the Bureau decides to do so, it expects that it will consider in that rulemaking whether any potential final rule revoking or amending the Seasoned QM Final Rule should affect covered transactions for which an application was received during the period from March 1, 2021, until the effective date of such a final rule.

The Bureau also expects to issue shortly a proposed rule that would delay the July 1, 2021 mandatory compliance date of the General QM Final Rule. If such a proposed rule were finalized, creditors would be able to use either the current General QM loan definition or the revised General QM loan definition for applications received during the period from March 1, 2021, until the delayed mandatory compliance date. Furthermore, the Bureau anticipates that the Temporary GSE QM loan definition will remain in effect until the new mandatory compliance date, in accordance with the October 20, 2020 final rule described above, except that the Temporary GSE QM loan definition would expire with respect to a GSE if that GSE ceases to operate under conservatorship prior to the new mandatory compliance date.

The Bureau will consider at a later date whether to initiate another rulemaking to reconsider other aspects of the General QM Final Rule.

Dated: February 22, 2021.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

[FR Doc. 2021–03987 Filed 2–23–21; 4:15 pm]

BILLING CODE 4810–AM–P

[1] 85 FR 86402 (Dec. 29, 2020); 85 FR 86308 (Dec. 29, 2020).

[2] Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z): Extension of Sunset Date, 85 FR 67938 (Oct. 26, 2020).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 21, 43, and 107

[Docket No. FAA–2018–1087]

RIN 2120–AK85

Operation of Small Unmanned Aircraft Systems Over People; Delay of Effective Date; Correction

AGENCY: Federal Aviation Administration (FAA).

ACTION: Final rule; delay of effective; correction.

SUMMARY: In accordance with the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, titled ''Regulatory Freeze Pending Review,'' the Agency delays the March 1, 2021 effective date of the final rule, Operation of Small Unmanned Aircraft Systems Over People, until March 16, 2021.

DATES: As of February 26, 2021, the March 1, 2021 effective date of the final rule published on January 15, 2021, at 86 FR 4314, is delayed to March 16, 2021. The corrections are effective March 16, 2021.

FOR FURTHER INFORMATION CONTACT: Michael Machnik, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 55 M Street SE, 8th Floor, Washington, DC 20003; telephone 1–844–FLY–MYUAS; email: *UASHelp@faa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of the notice of proposed rulemaking (NPRM) (84 FR 3856, Feb.

13, 2019), all comments received, the final rule, and all background material may be viewed online at *http://www.regulations.gov* using the docket number listed above. A copy of this final rule will also be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *http://www.ofr.gov* and the Government Publishing Office's website at *http://www.gpo.gov.*

Background

On January 20, 2021, the Assistant to the President and Chief of Staff issued a memorandum titled, ''Regulatory Freeze Pending Review.'' The memorandum requested that the heads of executive departments and agencies (agencies) take steps to ensure that the President's appointees or designees have the opportunity to review any new or pending rules. With respect to rules published in the **Federal Register**, but not yet effective, the memorandum asked that agencies consider postponing the rules' effective dates for 60 days from the date of the memorandum (*i.e.,* March 21, 2021) for the purpose of reviewing any questions of fact, law, and policy the rules may raise.

In accordance with this direction, the Agency has decided to delay until March 16, 2021, the effective date of the final rule, Operation of Small Unmanned Aircraft Systems Over People (RIN 2120–AK85), including the amendments to §§ 107.61, 107.63, 107.65, 107.73, and 107.74. The final rule permits routine operations of small unmanned aircraft over people, moving vehicles, and at night under certain conditions. The final rule also makes changes to the recurrent testing framework and expands the list of persons who may request the presentation of a remote pilot certificate. The delay in the rule's effective date will afford the President's appointees or designees an opportunity to review the rule and will allow for consideration of any questions of fact, law, or policy that the rule may raise before it becomes effective.

Additionally, as a result of the delay in the effective date, several corrections are necessary. The compliance date for § 107.29(a)(1) regarding the operation of a small unmanned aircraft system at night must be corrected so that it does not precede the new effective date. Similarly, a correction to § 107.65(d) regarding the timing of passing the recurrent aeronautical knowledge test or satisfying training requirements must also be made to conform to the delayed effective date.

Waiver of Rulemaking and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Agency generally offers interested parties the opportunity to comment on proposed regulations and publish rules not less than 30 days before their effective dates. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking or delay effective dates when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B) and (d)(3)). There is good cause to waive both of these requirements here as they are impracticable. A delay in the effective date of the final rule, Operation of Small Unmanned Aircraft Systems Over People, is necessary for the President's appointees and designees to have adequate time to review the rule before it takes effect, and neither the notice and comment process nor the delayed effective date could be implemented in time to allow for this review.

Corrections

In FR Doc. 2020–28947 (86 FR 4314) published on January 15, 2021, the following corrections are made:

§ 107.29 [Corrected]

■ 1. On page 4382, in the second column, in § 107.29, in paragraph (a)(1), the date ''March 1, 2021'' is corrected to read ''March 16, 2021''.

§ 107.65 [Corrected]

■ 2. On page 4383, in the first column, in § 107.65, in paragraph (d), the date ''March 1, 2021'' is corrected to read ''March 16, 2021''.

Issued in Washington, DC, under the authority provided by 49 U.S.C. 106(f), 40101 note and 44807, on February 23, 2021.

Steve Dickson,

Administrator, Federal Aviation Administration.

[FR Doc. 2021–04093 Filed 2–24–21; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0943; Airspace Docket No. 20–AWP–11]

RIN 2120–AA66

Amendment of Class D and Class E Airspace and Establishment of Class E Airspace; Lancaster, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace, designated as an extension to a Class D or Class E surface area, at General WM J Fox Airfield Airport. Additionally, this action establishes Class E airspace, extending upward from 700 feet above the surface. Further, this action removes the Palmdale Production Flight/Test Instln Plant NR42, Palmdale VORTAC, and the Gen. William J. Fox NDB from the Class E4 legal description. Lastly, this action implements several administrative corrections to the Class D, Class E2 and Class E4 airspace text headers and legal descriptions.

DATES: Effective 0901 UTC, June 17, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR 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: Matthew Van Der Wal, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3695.

SUPPLEMENTARY INFORMATION:

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 modifies Class D and Class E airspace and establishes Class E airspace at General WM J Fox Airfield Airport, Lancaster, CA, to ensure the safety and management of Instrument Flight Rules (IFR) operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 72613, November 13, 2020) for Docket No. FAA–2020–0943 to modify Class D and Class E airspace, and establish Class E airspace at General WM J Fox Airfield Airport, Lancaster, CA. 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, E2, E4, and E5 airspace designations are published in paragraphs 5000, 6002, 6004, 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 D and Class E airspace designation 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 modifies the Class E airspace, designated as an extension to a Class D or Class E surface area, at General WM J Fox Airfield Airport, Lancaster, CA, to properly contain IFR aircraft descending below 1,000 feet above the surface. This airspace area is described as follows: That airspace extending upward from the surface within 1 mile each side of the 252° bearing from the airport, extending from the 4-mile radius to 8.2 miles west of General WM J Fox Airfield Airport.

Also, this action establishes Class E airspace extending upward from 700 feet above the surface for the airport. This airspace is designed to contain IFR departures to 1,200 feet above the surface, and IFR arrivals descending below 1,500 feet above the surface. The airspace area is described as follows: That airspace extending upward from 700 feet above the surface within a 4-mile radius of the airport, and within 2 miles each side of the 091° bearing from the airport, extending from the 4-mile radius to 9.4 miles east of the airport, and within 2 miles each side of the 252° bearing from the airport, extending from the 4-mile radius to 16.3 miles west of the airport, and within 3.8 miles each side of the 311° bearing from the airport, extending from the 4-mile radius to 9.6 miles northwest of General WM J Fox Airfield Airport.

Additionally, this action removes the Palmdale Production Flight/Test Instln Plant NR42, the Palmdale VORTAC, and the Gen. William J. Fox NDB from the Class E4 legal description. The airport and the navigational aids are not needed to define the airspace. Removal of the airport and navigational aids allows the airspace to be defined from a single reference point which simplifies how the airspace is described.

Lastly, this action implements several administrative corrections to the airspaces' text headers and legal descriptions. The geographic coordinates in the Class D legal description are updated to lat. 34°44′28″ N, long. 118°13′07″ W. This action removes the city name from the second line of the Class D, Class E2, and Class E4 text headers. This action updates the airport name from ''Gen. William J. Fox Airfield'' to ''General WM J Fox Airfield Airport'' in the second line of the Class D, Class E2, and Class E4 text headers. The last sentence in the Class D and Class E2 legal descriptions is updated to replace the term ''Airport/Facilities Directory.'' with the term ''Chart Supplement.''

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

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.

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 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 5000 Class D Airspace.

* * * * *

AWP CA D Lancaster, CA [Amended]

General WM J Fox Airfield Airport, CA

(Lat. 34°44′28″ N, long. 118°13′07″ W)

That airspace extending upward from the surface to and including 4,800 feet MSL within a 4-mile radius of General WM J Fox Airfield 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 Airspace Areas Designated as a Surface Area.

* * * * *

AWP CA E2 Lancaster, CA [Amended]

General WM J Fox Airfield Airport, CA
(Lat. 34°44′28″ N, long. 118°13′07″ W)

That airspace extending upward from the surface within a 4-mile radius of General WM J Fox Airfield 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 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AWP CA E4 Lancaster, CA [Amended]

General WM J Fox Airfield Airport, CA
(Lat. 34°44′28″ N, long. 118°13′07″ W)

That airspace extending upward from the surface within 1 mile each side of the 252° bearing from the airport, extending from the 4-mile radius to 8.2 miles west of General WM J Fox Airfield Airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AWP CA E5 Lancaster, CA [New]

General WM J Fox Airfield Airport, CA
(Lat. 34°44′28″ N, long. 118°13′07″ W)

That airspace extending upward from 700 feet above the surface within a 4-mile radius of the airport, and within 2 miles each side of the 091° bearing from the airport, extending from the 4-mile radius to 9.4 miles east of the airport, and within 2 miles each side of the 252° bearing from the airport, extending from the 4-mile radius to 16.3 miles west of the airport, and within 3.8 miles each side of the 311° bearing from the airport, extending from the 4-mile radius to 9.6 miles northwest of General WM J Fox Airfield Airport.

Issued in Seattle, Washington, on February 16, 2021.

B.G. Chew,

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

[FR Doc. 2021–03910 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0727; Airspace Docket No. 20–ACE–18]

RIN 2120–AA66

Amendment of Class E Airspace; Cambridge, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace extending upward from 700 feet above the surface to properly contain instrument flight rules (IFR) operations at the airport. This action also removes the Harry Strunk NDB from the Class E5 text header and airspace description. Additionally, this action corrects the airport's geographic coordinates.

DATES: Effective 0901 UTC, June 17, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR 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: Matthew Van Der Wal, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3695.

SUPPLEMENTARY INFORMATION:

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 modifies the Class E airspace at Cambridge Municipal Airport, Cambridge, NE, to ensure the safety and management of IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 79934, December 11, 2020) for Docket No. FAA–2020–0727 to modify Class E airspace at Cambridge Municipal Airport, Cambridge, NE. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication of the NPRM, the FAA identified a typographical error in The Proposal section of the NPRM. The sentence in the NPRM's proposal that reads ''To properly contain IFR departures to 700 feet above the surface the 6.4-mile radius should be increased to a 7.5-mile radius of the airport.'' Should have read ''To properly contain IFR departures to 1,200 feet above the surface, the 6.4-mile radius should be increased to a 7.5-mile radius of the airport.'' The Final Rule corrects 700 feet to 1,200 feet in The Rule section of this document. The correction does not impact the airspace's lateral or vertical dimensions.

Class E5 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 designation 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 part 71 modifies the

Class E airspace extending upward from 700 feet above the surface. To properly contain IFR departures to 1,200 feet above the surface, the 6.4-mile radius of the airport is increased to a 7.5-mile radius of the airport.

Further, this action removes the Harry Strunk NDB from the airspace text header and the airspace description. The navigation aid (NAVAID) is being decommissioned and is not needed to describe the airspace.

Lastly, this action corrects the airport's geographic coordinates to lat. 40°18′24″ N, long. 100°09′43″ W.

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

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 the 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 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.

* * * * *

ACE NE E5 Cambridge, NE [AMENDED]

Cambridge Municipal Airport, NE
(Lat. 40°18′24″ N, long. 100°09′43″ W)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Cambridge Municipal Airport.

Issued in Seattle, Washington, on February 16, 2021.

B.G. Chew,

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

[FR Doc. 2021–03905 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–90788; File No. S7–25–20]

Custody of Digital Asset Securities by Special Purpose Broker-Dealers

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Commission statement; request for comment.

SUMMARY: The Commission is issuing a statement and requesting comment regarding the custody of digital asset securities by broker-dealers.

DATES:

Effective date: April 27, 2021.

Comments due: You may submit comments at any time throughout the five-year term of this Commission Statement.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/submitcomments.htm*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. S7–25–20 on the subject line.

Paper Comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–25–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission's website (*http://www.sec.gov*). Comments are also 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. 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 publicly available.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 551–5525; Thomas K. McGowan, Associate Director, at (202) 551–5521; Randall W. Roy, Deputy Associate Director, at (202) 551–5522; Raymond A. Lombardo, Assistant Director, at 202–551–5755; Timothy C. Fox, Branch Chief, at (202) 551–5687; or A.J. Jacob, Special Counsel, at (202) 551–5583, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–7010.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission is issuing this statement and request for comment to encourage innovation around the application of the Customer Protection Rule to digital asset securities.[1] The

[1] For purposes of this statement, the term ''digital asset'' refers to an asset that is issued and/or transferred using distributed ledger or blockchain technology (''distributed ledger technology''), including, but not limited to, so-called ''virtual currencies,'' ''coins,'' and ''tokens.'' The focus of this statement is digital assets that rely on cryptographic protocols. A digital asset may or may not meet the definition of a ''security'' under the federal securities laws. *See, e.g., Report of*

Continued

Commission envisions broker-dealers performing the full set of broker-dealer functions with respect to digital asset securities—including maintaining custody of these assets—in a manner that addresses the unique attributes of digital asset securities and minimizes risk to investors and other market participants.[2] Consequently, as discussed below, the Commission's position in this statement is premised on a broker-dealer limiting its business to digital asset securities to isolate risk and having policies and procedures to, among other things, assess a given digital asset security's distributed ledger technology and protect the private keys necessary to transfer the digital asset security. In this way, the Commission is cognizant of both investor protection and potential capital formation innovations that could result from digital asset securities.

Rule 15c3–3 under the Securities Exchange Act of 1934 (hereinafter the ''Customer Protection Rule'' or ''Rule 15c3–3'')[3] requires a broker-dealer to promptly obtain and thereafter maintain physical possession or control of all fully-paid and excess margin securities it carries for the account of customers.[4] Market participants have raised questions concerning the application of the Customer Protection Rule to the potential custody of digital asset securities for customers by broker-dealers. The Commission is requesting comment in this area to provide the Commission and its staff with an opportunity to gain additional insight into the evolving standards and best practices with respect to custody of digital asset securities. The Commission intends to consider the public's comments in connection with any future rulemaking or other Commission action in this area.

As an interim step, in addition to the request for comment, the Commission is issuing this statement. The Commission recognizes that the market for digital asset securities is still new and rapidly evolving. The technical requirements for transacting and custodying digital asset securities are different from those involving traditional securities. And traditional securities transactions often involve a variety of intermediaries, infrastructure providers, and counterparties for which there may be no analog in the digital asset securities market. The Commission supports innovation in the digital asset securities market to develop its infrastructure.

In particular, the Commission's position, which will expire after a period of five years from the publication date of this statement, is that a broker-dealer operating under the circumstances set forth in Section IV will not be subject to a Commission enforcement action on the basis that the broker-dealer deems itself to have obtained and maintained physical possession or control of customer fully paid and excess margin digital asset securities for the purposes of paragraph (b)(1) of Rule 15c3–3.[5] These broker-dealers will be subject to examination by the Financial Industry Regulatory Authority (''FINRA'') and Commission staff to review whether the firm is operating in a manner consistent with the circumstances described in Section IV below.

The five-year period in which the statement is in effect is designed to provide market participants with an opportunity to develop practices and processes that will enhance their ability to demonstrate possession or control over digital asset securities. It also will provide the Commission with experience in overseeing broker-dealer custody of digital asset securities to inform further action in this area.

II. Background

Customers who use broker-dealers registered with the Commission to custody their securities (and related cash) benefit from the protections provided by the federal securities laws, including the Customer Protection Rule and, in most cases, the Securities Investor Protection Act of 1970 (''SIPA'').[6] Generally, the Commission's Customer Protection Rule requires a broker-dealer to segregate customer securities and related cash from the firm's proprietary business activities, other than those that facilitate customer transactions.[7] The rule requires the broker-dealer to maintain physical possession or control over customers' fully paid and excess margin securities.[8]

Broker-dealer custody of securities is an integral service provided to the securities markets. However, broker-dealer custody of digital asset securities raises certain compliance questions with respect to the Customer Protection Rule. More specifically, while paragraph (b)(1) of Rule 15c3–3 requires that a broker-dealer ''control'' customer fully paid and excess margin securities, it may not be possible for a broker-dealer to establish control over a digital asset security with the same control mechanisms used in connection with traditional securities. Moreover, there have been instances of fraud, theft, and loss with respect to the custodianship of digital assets, including digital asset securities.[9]

The risks associated with digital assets, including digital asset securities, are due in part to differences in the clearance and settlement of traditional securities and digital assets. Traditional securities transactions generally are processed and settled through clearing agencies, depositories, clearing banks, transfer agents, and issuers. A broker-dealer's employees, regulators, and outside auditors can contact these third parties to confirm that the broker-dealer

Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO, Exchange Act Release No. 81207 (July 25, 2017). As used in this statement, a ''digital asset security'' means a digital asset that meets the definition of a ''security'' under the federal securities laws. A digital asset that is not a security is referred to herein as a ''non-security digital asset.''

[2] *See* 17 CFR 240.15c3–3. The Commission staff has issued a joint statement with the Financial Industry Regulatory Authority on broker-dealer custody of digital asset securities (''Joint Statement''), as well as a no-action letter regarding the Joint Statement to broker-dealers operating alternative trading systems (''ATSs''). *See Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities,* dated July 8, 2019, *available at https://www.sec.gov/news/public-statement/joint-staff-statement-broker-dealer-custody-digital-asset-securities. See also* Letter to Ms. Kris Dailey, Financial Industry Regulatory Authority, ATS Role in the Settlement of Digital Asset Security Trades, dated September 25, 2020 (discussing a three-step process broker-dealers use when operating an alternative trading system for the purpose of trading digital asset securities), available at *https://www.sec.gov/divisions/marketreg/mr-noaction/2020/finra-ats-role-in-settlement-of-digital-asset-security-trades-09252020.pdf.* Staff statements represent the views of the staff. They are not rules, regulations, or statements of the Commission. The Commission has neither approved nor disapproved their content. These staff statements, like all staff guidance, have no legal force or effect: they do not alter or amend applicable law, and they create no new or additional obligations for any person.

[3] *See* 17 CFR 240.15c3–3.

[4] *See* 17 CFR 240.15c3–3(b).

[5] Pursuant to the Congressional Review Act, the Office of Information and Regulatory Affairs has designated this statement as a ''major rule'' as defined by 5 U.S.C. 804(2). *See* 5 U.S.C. 801 *et seq.*

[6] 15 U.S.C. 78aaa, *et seq.* Under SIPA, customers' securities held by a broker-dealer that is a member of the Securities Investor Protection Corporation and customers' cash on deposit at such a broker-dealer for the purpose of purchasing securities would be isolated and readily identifiable as ''customer property'' and, consequently, available to be distributed to customers ahead of other creditors in the event of the broker-dealer's liquidation. *Id.*

[7] *See Net Capital Requirements for Brokers and Dealers,* Exchange Act Rel. No. 21651 (Jan. 11, 1985), 50 FR 2690, 2690 (Jan. 18, 1985) (Rule 15c3–3 is designed ''to give more specific protection to customer funds and securities, in effect forbidding brokers and dealers from using customer assets to finance any part of their businesses unrelated to servicing securities customers; *e.g.,* a firm is virtually precluded from using customer funds to buy securities for its own account'').

[8] *See* 17 CFR 240.15c3–3(b)(1).

[9] *See generally,* Report of the Attorney General's Cyber Digital Task Force: Cryptocurrency Enforcement Framework (October 2020), at 15–16, available at *https://www.justice.gov/ag/page/file/1326061/download.*

is in fact holding the traditional securities reflected on its books and records and financial statements, thereby providing objective processes for examining the broker-dealer's compliance with the Customer Protection Rule. Also, the traditional securities infrastructure has established processes to reverse or cancel mistaken or unauthorized transactions. Thus, the traditional securities infrastructure contains checks and controls that can be used to verify proprietary and customer holdings of traditional securities by broker-dealers, as well as processes designed to ensure that both parties to a transfer of traditional securities agree to the terms of the transfer.

Digital assets that are issued or transferred using distributed ledger technology may not be subject to the same established clearance and settlement process familiar to traditional securities market participants.[10] The manner in which digital assets, including digital asset securities, are issued, held, or transferred may create greater risk that a broker-dealer maintaining custody of this type of asset, as well as the broker-dealer's customers, counterparties, and other creditors, could suffer financial harm. For example, the broker-dealer could be victimized by fraud or theft, could lose a ''private key'' necessary to transfer a client's digital assets, or could transfer a client's digital assets to an unintended address without the ability to reverse a fraudulent or mistaken transaction. In addition, malicious activity attributed to actors taking advantage of potential vulnerabilities that may be associated with distributed ledger technology and its associated networks could render the broker-dealer unable to transfer a customer's digital assets.

The express language of the Customer Protection Rule includes cash and securities held at the broker-dealer. Therefore, customers holding digital assets that are not securities through a broker-dealer could receive less protection for those assets than customers holding securities. The potential liabilities caused by the theft or loss of non-securities property from a broker-dealer, including digital assets that are not securities, could cause the broker-dealer to incur substantial losses or even fail, impacting customers and other creditors. As a consequence, the broker-dealer may need to be liquidated in a proceeding under SIPA. SIPA protection does not extend to all assets that may be held at a broker-dealer. Consequently, in a SIPA liquidation of a broker-dealer that held non-security assets, including non-security digital assets, investors may be treated as general creditors, to the extent their claims involve assets that are not within SIPA's definition of ''security.''[11]

III. Discussion

A broker-dealer that maintains custody of a fully paid or excess margin digital asset security for a customer must hold it in a manner that complies with Rule 15c3–3, including that the digital asset security must be in the exclusive physical possession or control of the broker-dealer.[12] A digital asset security that is not in the exclusive physical possession or control of the broker-dealer because, for example, an unauthorized person knows or has access to the associated private key (and therefore has the ability to transfer it without the authorization of the broker-dealer) would not be held in a manner that complies with the possession or control requirement of Rule 15c3–3 and thus would be vulnerable to the risks the rule seeks to mitigate.

As noted above, the loss or theft of digital asset securities may cause the firm and its digital asset customers to incur substantial financial losses. This, in turn, could cause the firm to fail, imperiling its traditional securities customers as well as the broker-dealer's counterparties and other market participants. However, there are measures a broker-dealer can employ to comply with Rule 15c3–3 and mitigate these risks.

One step that a broker-dealer could take to shield traditional securities customers, counterparties, and market participants from the risks and consequences of digital asset security fraud, theft, or loss would be to limit its business exclusively to dealing in, effecting transactions in, maintaining custody of, and/or operating an alternative trading system for digital asset securities. Thus, to operate in a manner consistent with the Commission's position, the broker-dealer could not deal in, effect transactions in, maintain custody of, or operate an alternative trading system for traditional securities. In addition, by limiting its activities exclusively to digital asset *securities,* the broker-dealer would shield its customers from the risks that could arise if the firm engaged in activities involving non-security digital assets, which are not expressly governed by the Customer Protection Rule. For example, to the extent that the requirements of the Customer Protection Rule do not apply to non-security digital assets, such assets could receive less protection than securities, which would increase the risk of theft or loss and could ultimately cause the broker-dealer to fail, impacting customers and other creditors.

A second step the broker-dealer could take is to establish, maintain, and enforce reasonably designed written policies and procedures to conduct and document an analysis of whether a digital asset is a security offered and sold pursuant to an effective registration statement or an available exemption from registration, and whether the broker-dealer has fulfilled its requirements to comply with the federal securities laws with respect to effecting transactions in that digital asset security, before undertaking to effect transactions in and maintain custody of such asset. Such policies and procedures should provide a reasonable level of assurance that any digital assets transacted in or held in custody by the broker-dealer are in fact digital asset securities. Utilizing such policies and procedures should help ensure that the broker-dealer is confining its business to digital asset securities and that such digital asset securities are being offered, sold, or otherwise transacted in compliance with the federal securities laws.

A third step the broker-dealer could take is to establish, maintain, and enforce reasonably designed written policies and procedures to conduct and document an assessment of the characteristics of a digital asset security's distributed ledger technology

[10] The clearance and settlement of securities that are not digital assets are characterized by infrastructure whereby intermediaries such as clearing agencies and securities depositories serve as key participants in the process. The clearance and settlement of digital asset securities, on the other hand, generally rely on few, if any, intermediaries and remain evolving areas of practices and procedures.

[11] Generally, SIPA defines the term ''security'' to include, among other things, any note, stock, treasury stock bond, debenture, evidence of indebtedness, any investment contract or certificate of interest or participation in any profit-sharing agreement, provided that such investment contract or interest is the subject of a registration statement with the Commission pursuant to the Securities Exchange Act of 1933 (15 U.S.C. 77a *et seq.*), and any put, call, straddle, option, or privilege on any security, or group or index of securities. *See* 15 U.S.C. 78lll(14). Generally, in a SIPA liquidation, customers' claims receive priority to the estate of customer property (generally cash and securities received acquired or held by the broker-dealer for the securities accounts of customers) over other creditors. *See* 15 U.S.C. 78fff & 78fff–2(c). In addition, to the extent that the estate of customer property is insufficient to satisfy the net equity claims of customers, the trustee can advance up to $500,000 for each customer, of which up to $250,000 can be used for cash claims. *See* 15 U.S.C. 78fff–3(a) & (d).

[12] *See* 17 CFR 240.15c3–3(b).

and associated network [13] prior to undertaking to maintain custody of the digital asset security and at reasonable intervals thereafter. The assessment could examine at least the following aspects of the distributed ledger technology and its associated network, among others: (1) Performance (*i.e.,* does it work and will it continue to work as intended); (2) transaction speed and throughput (*i.e.,* can it process transactions quickly enough for the intended application(s)); (3) scalability (*i.e.,* can it handle a potential increase in network activity); (4) resiliency (*i.e.,* can it absorb the impact of a problem in one or more parts of its system and continue processing transactions without data loss or corruption); (5) security and the relevant consensus mechanism (*i.e.,* can it detect and defend against malicious attacks, such as 51% attacks [14] or Denial-of-Service attacks, without data loss or corruption); (6) complexity (*i.e.,* can it be understood, maintained, and improved); (7) extensibility (*i.e.,* can it have new functionality added, and continue processing transactions without data loss or corruption); and (8) visibility (*i.e.,* are its associated code, standards, applications, and data publicly available and well documented). The assessment also could examine the governance of the distributed ledger technology and associated network and how protocol updates and changes are agreed to and implemented. This would include an assessment of impacts to the digital asset security of events such as protocol upgrades, hard forks, airdrops, exchanges of one digital asset for another, or staking.[15] Such assessments would allow a broker-dealer to be able to identify significant weaknesses or other operational issues with the distributed ledger technology and associated network utilized by the digital asset security, or other risks posed to the broker-dealer's business by the digital asset security, which would allow a broker-dealer to take appropriate action to identify and reduce its exposure to such risks. Accordingly, if there are significant weaknesses or other operational issues with the distributed ledger technology and associated network, the broker-dealer would be able to determine whether it could or could not maintain custody of the digital asset security.

A fourth step the broker-dealer could take is to establish, maintain, and enforce reasonably designed written policies, procedures, and controls for safekeeping and demonstrating the broker-dealer has exclusive possession or control over digital asset securities that are consistent with industry best practices to protect against the theft, loss, and unauthorized and accidental use of the private keys necessary to access and transfer the digital asset securities the broker-dealer holds in custody. These policies, procedures, and controls could address, among other matters: (1) The on-boarding of a digital asset security such that the broker-dealer can associate the digital asset security to a private key over which it can reasonably demonstrate exclusive physical possession or control; (2) the processes, software and hardware systems, and any other formats or systems utilized to create, store, or use private keys and any security or operational vulnerabilities of those systems and formats; (3) the establishment of private key generation processes that are secure and produce a cryptographically strong private key that is compatible with the distributed ledger technology and associated network and that is not susceptible to being discovered by unauthorized persons during the generation process or thereafter; (4) measures to protect private keys from being used to make an unauthorized or accidental transfer of a digital asset security held in custody by the broker-dealer; and (5) measures that protect private keys from being corrupted, lost or destroyed, that back-up the private key in a manner that does not compromise the security of the private key, and that otherwise preserve the ability of the firm to access and transfer a digital asset security it holds in the event a facility, software, or hardware system, or other format or system on which the private keys are stored and/or used is disrupted or destroyed. These policies, procedures, and controls for safekeeping and demonstrating the broker-dealer has exclusive possession or control over digital asset securities should serve to protect against the theft, loss, and unauthorized and accidental use of the private keys and therefore the customers' digital asset securities.

A fifth step the broker-dealer could take is to establish, maintain, and enforce reasonably designed written policies, procedures, and arrangements to: (1) Specifically identify, in advance, the steps it intends to take in the wake of certain events that could affect the firm's custody of the digital asset securities, including blockchain malfunctions, 51% attacks, hard forks, or airdrops; (2) allow the broker-dealer to comply with a court-ordered freeze or seizure; and (3) allow the transfer of the digital asset securities held by the broker-dealer to another special purpose broker-dealer, a trustee, receiver, liquidator, a person performing a similar function, or another appropriate person, in the event the broker-dealer can no longer continue as a going concern and self-liquidates or is subject to a formal bankruptcy, receivership, liquidation, or similar proceeding. These policies and procedures should include measures for ensuring continued safekeeping and accessibility of the digital asset securities, even if the broker-dealer is wound down or liquidated, and thus would provide a reasonable level of assurance that a broker-dealer has developed plans to address unexpected disruptions to the broker-dealer's control over digital asset securities.

A sixth step the broker-dealer could take is to provide written disclosures to prospective customers about the risks of investing in or holding digital asset securities. The disclosures could include, among other matters: (1) Prominent disclosure explaining that digital asset securities may not be ''securities'' as defined in SIPA [16]—and in particular, digital asset securities that are ''investment contracts'' under the *Howey* test [17] but are not registered with the Commission are excluded from SIPA's definition of ''securities''—and thus the protections afforded to securities customers under SIPA may not apply with respect to those securities; (2) a description of the risks of fraud, manipulation, theft, and loss associated with digital asset securities; (3) a description of the risks relating to valuation, price volatility, and liquidity associated with digital asset securities; and (4) a description of the processes, software and hardware systems, and any other formats or systems utilized by the broker-dealer to create, store, or use the broker-dealer's private keys and protect them from loss, theft, or unauthorized or accidental use (including, but not limited to, cold storage, key sharding,

[13] For the purposes of this statement, a digital asset security's distributed ledger technology and associated network includes the protocols and any smart contracts or applications integral to the operation of the digital asset security.

[14] For the purposes of this statement, a ''51% attack'' is an attack on a blockchain or distributed ledger in which an attacker or group of attackers controls a majority of the network's hash rate, mining or computing power, allowing the attacker or group of attackers to prevent new transactions from being confirmed.

[15] For purposes of this statement, ''hard forks'' refer to backward-incompatible protocol changes to a distributed ledger that create additional versions of the distributed ledger, potentially creating new digital assets. ''Airdrops'' refer to the distribution of digital assets to numerous addresses, usually at no monetary cost to the recipient or in exchange for certain promotional services. ''Staking'' refers to the use of a digital asset in a consensus mechanism.

[16] 15 U.S.C. 78*lll*(14).

[17] *See SEC* v. *W.J. Howey Co.,* 328 U.S. 293 (1946).

multiple factor identification, and biometric authentication). The purpose of such disclosures is to provide the prospective customers with sufficient and easily understandable information about the risks to enable them to make informed decisions about whether to invest in or hold digital asset securities through the broker-dealer.

A seventh step the broker-dealer could take is to enter into a written agreement with each customer that sets forth the terms and conditions with respect to receiving, purchasing, holding, safekeeping, selling, transferring, exchanging, custodying, liquidating, and otherwise transacting in digital asset securities on behalf of the customer.[18] This step would ensure documentation of the terms of agreement between the customer and the broker-dealer providing custody of the customer's digital asset security, which would provide greater clarity and certainty to customers regarding their rights and responsibilities under the agreement with the broker-dealer.

IV. Commission Position

The Commission's position [19] is expressly limited to paragraph (b) of Rule 15c3–3 under the Securities Exchange Act of 1934 (''Exchange Act''). Furthermore, the Commission's position does not modify or change any obligations of a broker-dealer, or other party, to otherwise comply with the federal securities laws, including the broker-dealer financial responsibility rules, obligations regarding proxy voting and beneficial ownership communications, as well as the broker-dealer's obligation to become a member of FINRA and to comply with applicable anti-money laundering and countering the financing of terrorism obligations under the Bank Secrecy Act.[20] All terms used in this Commission position will have the definitions set forth in Rule 15c3–3. Finally, the Commission's position, which will expire after a period of five years from the publication date of this statement, applies only to the exercise of its enforcement discretion with respect to compliance with paragraph (b)(1) of Rule 15c3–3 under the circumstances set forth below. During this period, the Commission will continue to evaluate its position, and the circumstances set forth below, on an ongoing basis as it considers responses to the request for comments as well as further action in this area, including any future rulemaking.

After considering the minimum steps that can be taken to mitigate the risks posed by broker-dealer custody of digital asset securities, for a period of five years, the Commission's position is that a broker-dealer in the following circumstances would not be subject to a Commission enforcement action on the basis that the broker-dealer deems itself to have obtained and maintained physical possession or control of customer fully paid and excess margin digital asset securities:

1. The broker-dealer has access to the digital asset securities and the capability to transfer them on the associated distributed ledger technology;

2. The broker-dealer limits its business to dealing in, effecting transactions in, maintaining custody of, and/or operating an alternative trading system for digital asset securities; provided a broker-dealer may hold proprietary positions in traditional securities solely for the purposes of meeting the firm's minimum net capital requirements under Rule 15c3–1,[21] or hedging the risks of its proprietary positions in traditional securities and digital asset securities.

3. The broker-dealer establishes, maintains, and enforces reasonably designed written policies and procedures to conduct and document an analysis of whether a particular digital asset is a security offered and sold pursuant to an effective registration statement or an available exemption from registration, and whether the broker-dealer meets its requirements to comply with the federal securities laws with respect to effecting transactions in the digital asset security, before undertaking to effect transactions in and maintain custody of the digital asset security;

4. The broker-dealer establishes, maintains, and enforces reasonably designed written policies and procedures to conduct and document an assessment of the characteristics of a digital asset security's distributed ledger technology and associated network prior to undertaking to maintain custody of the digital asset security and at reasonable intervals thereafter;

5. The broker-dealer does not undertake to maintain custody of a digital asset security if the firm is aware of any material security or operational problems or weaknesses with the distributed ledger technology and associated network used to access and transfer the digital asset security, or is aware of other material risks posed to the broker-dealer's business by the digital asset security;

6. The broker-dealer establishes, maintains, and enforces reasonably designed written policies, procedures, and controls that are consistent with industry best practices to demonstrate the broker-dealer has exclusive control over the digital asset securities it holds in custody and to protect against the theft, loss, and unauthorized and accidental use of the private keys necessary to access and transfer the digital asset securities the broker-dealer holds in custody;

7. The broker-dealer establishes, maintains, and enforces reasonably designed written policies, procedures, and arrangements to: (i) Specifically identify, in advance, the steps it will take in the wake of certain events that could affect the firm's custody of the digital asset securities, including, without limitation, blockchain malfunctions, 51% attacks, hard forks, or airdrops; (ii) allow for the broker-dealer to comply with a court-ordered freeze or seizure; and (iii) allow for the transfer of the digital asset securities held by the broker-dealer to another special purpose broker-dealer, a trustee, receiver, liquidator, or person performing a similar function, or to another appropriate person, in the event the broker-dealer can no longer continue as a going concern and self-liquidates or is subject to a formal bankruptcy, receivership, liquidation, or similar proceeding;

8. The broker-dealer provides written disclosures to prospective customers: (i) That the firm is deeming itself to be in possession or control of digital asset securities held for the customer for the purposes of paragraph (b)(1) of Rule 15c3–3 based on its compliance with this Commission position; and (ii) about the risks of investing in or holding digital asset securities that, at a minimum: (a) Prominently disclose that digital asset securities may not be ''securities'' as defined in SIPA—and in particular, digital asset securities that are ''investment contracts'' under the

[18] The agreement should contain such provisions and disclosures as are required by applicable laws, rules, and regulations.

[19] The Commission's position is an agency statement of general applicability with future effect designed to implement, interpret, or prescribe law or policy.

[20] *See* Heath Tarbert, Chairman, U.S. Commodity Futures Trading Commission, Kenneth A. Blanco, Director, Financial Crimes Enforcement Network, and Jay Clayton, Chairman, Commission, Leaders of CFTC, FinCEN, and SEC Issue Joint Statement on Activities Involving Digital Assets, dated Oct. 11, 2019 (reminding persons engaged in activities involving digital assets of their anti-money laundering (''AML'') and countering the financing of terrorism (''CFT'') obligations under the Bank Secrecy Act, and stating that broker-dealers are required to implement reasonably-designed AML programs and report suspicious activity, and that such requirements are not limited in their application to activities involving digital assets that are ''securities'' under the federal securities laws), *available at https://www.sec.gov/news/public-statement/cftc-fincen-secjointstatementdigital assets.*

[21] 17 CFR. 240.15c3–1.

Howey test but are not registered with the Commission are excluded from SIPA's definition of ''securities''—and thus the protections afforded to securities customers under SIPA may not apply; (b) describe the risks of fraud, manipulation, theft, and loss associated with digital asset securities; (c) describe the risks relating to valuation, price volatility, and liquidity associated with digital asset securities; and (d) describe, at a high level that would not compromise any security protocols, the processes, software and hardware systems, and any other formats or systems utilized by the broker-dealer to create, store, or use the broker-dealer's private keys and protect them from loss, theft, or unauthorized or accidental use; [22] and

9. The broker-dealer enters into a written agreement with each customer that sets forth the terms and conditions with respect to receiving, purchasing, holding, safekeeping, selling, transferring, exchanging, custodying, liquidating and otherwise transacting in digital asset securities on behalf of the customer.[23]

V. Request for Comment

The Commission is seeking comment on the specific questions below. When responding to the request for comment, please explain your reasoning.

1. What are industry best practices with respect to protecting against theft, loss, and unauthorized or accidental use of private keys necessary for accessing and transferring digital asset securities? What are industry best practices for generating, safekeeping, and using private keys? Please identify the sources of such best practices.

2. What are industry best practices to address events that could affect a broker-dealer's custody of digital asset securities such as a hard fork, airdrop, or 51% attack? Please identify the sources of such best practices.

3. What are the processes, software and hardware systems, or other formats or systems that are currently available to broker-dealers to create, store, or use private keys and protect them from loss, theft, or unauthorized or accidental use?

4. What are accepted practices (or model language) with respect to disclosing the risks of digital asset securities and the use of private keys? Have these practices or the model language been utilized with customers?

5. Should the Commission expand this position in the future to include other businesses such as traditional securities and/or non-security digital assets? Should this position be expanded to include the use of non-security digital assets as a means of payment for digital asset securities, such as by incorporating a *de minimis* threshold for non-security digital assets?

6. What differences are there in the clearance and settlement of traditional securities and digital assets that could lead to higher or lower clearance and settlement risks for digital assets as compared to traditional securities?

7. What specific benefits and/or risks are implicated in a broker-dealer operating a digital asset alternative trading system that the Commission should consider for any future measures it may take?

By the Commission.

Dated: December 23, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–28847 Filed 2–25–21; 8:45 am]

BILLING CODE 8011–01–P

[22] The broker-dealer will need to retain these written disclosures in accordance with the broker-dealer record retention rule. *See* 17 CFR 240.17a–4(b)(4).

[23] The broker-dealer will need to retain these written agreements in accordance with the broker-dealer record retention rule. *See* 17 CFR 240.17a–4(b)(7).

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 10

Wage and Hour Division

29 CFR Parts 516, 531, 578, 579, and 580

RIN 1235–AA21

Tip Regulations Under the Fair Labor Standards Act (FLSA): Delay of Effective Date

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Final rule; delay of effective date.

SUMMARY: Consistent 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 finalizes the Department of Labor's (''the Department'') proposal to delay until April 30, 2021, the effective date of the rule titled Tip Regulations Under the Fair Labor Standards Act (FLSA), published in the **Federal Register** on December 30, 2020, to allow the Department to review issues of law, policy, and fact raised by the rule before it takes effect.

DATES: As of February 26, 2021, the effective date of the regulation titled Tip Regulations Under the Fair Labor Standards Act (FLSA), published in the **Federal Register** on December 30, 2020 (85 FR 86756), is delayed until April 30, 2021.

FOR FURTHER INFORMATION CONTACT: Amy DeBisschop, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this final rule may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0675 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–877–889–5627 to obtain information or request materials in alternative formats. Questions of interpretation or enforcement of the agency's existing regulations may be directed to the nearest Wage and Hour Division (''WHD'') district office. Locate the nearest office by calling the WHD's toll-free help line at (866) 4US–WAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto WHD's website at *https://www.dol.gov/agencies/whd/contact/local-offices* for a nationwide listing of WHD district and area offices.

SUPPLEMENTARY INFORMATION:

I. Background

In the Consolidated Appropriations Act of 2018 (''CAA''), Congress amended section 3(m) of the Fair Labor Standards Act (''FLSA'' or ''Act'') to prohibit employers from keeping tips received by their employees, regardless of whether the employers take a tip credit under section 3(m). On December 30, 2020, the Department published Tip Regulations Under the Fair Labor Standards Act (FLSA) (the ''Tip Rule'') in the **Federal Register** to address these amendments. *See* 85 FR 86756. The Tip Rule would also codify the Wage and Hour Division's (''WHD'') guidance regarding the tip credit's application to tipped employees who perform tipped and non-tipped duties. *See id.* The effective date of the Tip Rule was March 1, 2021. *See id.*

In a memorandum dated January 20, 2021 titled ''Regulatory Freeze Pending Review,'' published in the **Federal Register** on January 28, 2021 (86 FR 7424) (''Regulatory Freeze Memorandum''), the Assistant to the President and Chief of Staff, on behalf

of the President, directed the heads of Executive Departments and Agencies to consider delaying the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect; the Tip Rule falls into this category. The Regulatory Freeze Memorandum states that the purpose of such delays is for agencies to review any questions of fact, law, and policy that the rules 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* 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* (last visited Feb. 19, 2021). OMB Memorandum 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 processes'' for ''rules that have not yet taken effect and about which questions involving law, fact, or policy have been raised.'' *Id.* In accordance with the Regulatory Freeze Memorandum and OMB Memorandum M–21–14, on February 5, 2021, the Department published in the **Federal Register** the proposed delay of the effective date for the Tip Rule (86 FR 8325) by 60 days to April 30, 2021.

The Department explained that delaying the effective date of the Tip Rule would provide the Department additional opportunity to review and consider the questions of law, policy, and fact raised by the rule, as contemplated by the Regulatory Freeze Memorandum and OMB Memorandum M–21–14, before the rule goes into effect. The Department added that it could consider whether the Tip Rule properly implements the CAA Amendments to section 3(m) of the FLSA, which prohibit employers from keeping tips for any purpose; whether the Tip Rule adequately considered the possible costs, benefits, and transfers between employers and employees related to the codification of its guidance regarding the tip credit's application to tipped employees who perform tipped and non-tipped duties; and whether the Tip Rule otherwise effectuates the CAA amendments to the FLSA, including the statutory provision for civil money penalties for violations of section 3(m)(2)(B) of the Act. Additionally, on January 19, 2021, Attorneys General from eight states and the District of Columbia filed a complaint for declaratory and injunctive relief in the United States District Court for the Eastern District of Pennsylvania, in which they argued that the Department violated the Administrative Procedure Act in promulgating the Tip Rule.[1] The complaint argues that the Tip Rule makes several changes to the Department's regulations that are contrary to the FLSA and the CAA, specifically, the Tip Rule's codification of WHD's guidance regarding the tip credit's application to tipped employees who perform tipped and non-tipped duties, the rule's revisions to portions of its Civil Money Penalty (CMP) regulations on willful violations, and the rule's imposition of a willfulness requirement for CMPs for section 3(m)(2)(B) violations, and it argues that the Department failed to justify the changes made in the Tip Rule or consider the impact of these changes on workers. The delay of the Tip Rule's effective date would also give the Department the opportunity to review and consider the rule in light of the issues raised by that complaint.

The Department invited public comment on the proposed delay. The comment period ended on February 17, 2021.

II. Comments and Decision

A total of 19 organizations timely commented on the notice of proposed rulemaking (''NPRM'') (86 FR 8325, February 5, 2021) during the 12-day comment period that ended on February 17, 2021, which may be viewed on *www.regulations.gov,* document ID WHD–2019–0004–0475. The Department received comments from a broad array of stakeholders, including Attorneys General from eight states and the District of Columbia, a law firm, industry groups, non-profit organizations, and advocacy organizations. Seventeen commenters supported the Department's proposal to delay the Tip Rule's effective date. Two of the commenters opposed the proposed delay.

Supporters of the proposed delay in the Tip Rule's effective date stated that the rule raises questions of law, policy, and fact that warrant further review and consideration by the Department in accordance with the Regulatory Freeze Memo. Advocacy organizations such as the National Employment Law Project (NELP), Network Lobby for Catholic Social Justice, and the National Women's Law Center stated that the Department should specifically reconsider the following changes, which they argued are harmful to workers and inconsistent with the FLSA and the CAA amendments: The Tip Rule's codification of WHD's guidance regarding the tip credit's application to tipped employees who perform tipped and non-tipped duties; the Tip Rule's revisions to portions of its CMP regulations on willful violations; and the Tip Rule's incorporation of the CAA's language regarding CMPs for section 3(m)(2)(B) violations into the Department's regulations. Advocacy organizations and Attorneys General for eight states and the District of Columbia also stated that the Department should consider the issues of law raised in the January 19, 2021 complaint.

The Economic Policy Institute supported the proposed delay because it would give the Department time to reassess the Tip Rule's analysis of the economic impact of codifying WHD's guidance regarding the tip credit's application to tipped employees who perform tipped and non-tipped duties, which it argued was flawed. Multiple commenters, such as Restaurant Opportunities Center United and the Leadership Conference on Civil Rights, stated that the Department should delay the Tip Rule in light of the COVID–19 pandemic, indicating that tipped workers have been particularly harmed by the pandemic and that it has led to a restructuring of the restaurant industry. Additionally, NELP stated that a delay in the Tip Rule's effective date is appropriate to avoid additional compliance costs and training that employers would incur if the rule becomes effective and then is revised by the Department after its review.

Two commenters opposed any delay in the effective date. The Center for Workplace Compliance (CWC) stated that it does not believe a delay in the Tip Rule's effective date is necessary; it largely dedicated its comment to explaining why it supports the Rule. The Department disagrees; as discussed below, the Department concludes that supporters of the proposed delay have identified issues of fact, law, and policy raised by the Tip Rule that merit further review in accordance with the Regulatory Freeze Memo. The National Federation of Independent Businesses (NFIB) expressed its support for the Tip Rule as well, and stated that instead of delaying the rule's effective date, the Department should allow it to go into effect and then consider whether to propose any changes. The Department disagrees with this approach. Allowing

[1] *Commonwealth of Pennsylvania et al.* v. *Scalia et al.,* No. 2:21–cv–00258 (E.D. Pa., Jan. 19, 2021).

the Tip Rule to go into effect while the Department undertakes a further review of the Tip Rule could lead to confusion and uncertainty among workers and employers in the event that the Department proposes revisions to the rule following its review.

In addition to opposing a delay in the effective date, the NFIB questioned whether this rulemaking could properly become effective before the Tip Rule's original effective date. NFIB believes that a delay of the Tip Rule's effective date must be published 30 days before it takes effect. The Department disagrees. Section 553(d) of the Administrative Procedure Act provides that substantive rules should take effect not less than 30 days after the date they are published in the **Federal Register** unless ''otherwise provided by the agency for good cause found.'' 5 U.S.C. 553(d)(3). The Department finds that it has good cause to make this rule effective immediately upon publication because allowing for a 30-day delay between publication and the effective date of this rulemaking would result in the Tip Rule taking effect before the delay begins, which would undermine the purpose for which this rule is being promulgated and result in additional confusion for regulated entities. The Regulatory Freeze Memorandum was issued on January 20, 2021, only 40 days before the Tip Rule's original effective date of March 1, 2021. It would not have been practicable to issue an NPRM proposing to delay the Tip Rule and allow for ample time for public comment on that proposal in time to publish a final rule not less than 30 days before March 1. Moreover, this rulemaking institutes a 60-day delay of the Tip Rule, rather than itself imposing any new compliance obligations on employers; therefore, the Department finds that a lapse between publication and the effective date of this rule delaying the Tip Rule's effective date is unnecessary. Because allowing for a 30-day period between publication and the effective date of this rulemaking is both unnecessary and impracticable, this final rule delaying the Tip Rule's effective date is effective immediately upon publication.

After reviewing timely comments submitted, the Department agrees with the supporters of the proposed delay in the Tip Rule's effective date that the Tip Rule raises multiple issues of law, policy, and fact that warrant additional review and consideration in accordance with the Regulatory Freeze Memo. These issues include the Tip Rule's codification of WHD's guidance regarding the tip credit's application to tipped employees who perform tipped and non-tipped duties; the Tip Rule's revisions to portions of its CMP regulations on willful violations; the Tip Rule's incorporation of the CAA's language regarding CMPs for section 3(m)(2)(B) violations into the Department's regulations; and the Tip Rule's analysis of the economic impact of codifying WHD's guidance regarding the tip credit's application to tipped employees who perform tipped and non-tipped duties. As numerous advocacy organizations and the Attorneys' General for eight states and the District of Columbia noted in their comments, a delay in the Tip Rule's effective date would also give the Department more time to review the issues of law raised in the January 19 complaint. Allowing the Tip Rule to go into effect while the Department undertakes a review of these issues identified by commenters could lead to confusion among workers and employers in the event that the Department proposes to revise the Tip Rule after its review; delaying the Tip Rule would avoid such confusion. Additionally, the Department agrees with NELP that a delay in the Tip Rule's effective date would prevent employers from incurring potentially unnecessary additional costs to familiarize themselves with the Tip Rule if the Department elects to propose revising the Tip Rule following its review. To give the Department additional time to review issues of law, policy, and fact raised by the Tip Rule before the Tip Rule goes into effect, the Department therefore finalizes the proposed delay in effective date.

Signed this 24th day of February, 2021.

Milton A. Stewart,

Acting Secretary of Labor.

[FR Doc. 2021–04118 Filed 2–24–21; 4:15 pm]

BILLING CODE 4510–27–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2020–10]

Modernizing Recordation of Notices of Termination

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Final rule; statement of policy.

SUMMARY: The Copyright Office is amending certain regulations governing the recordation of notices of termination to improve efficiency in processing. This final rule adopts regulatory language set forth in the Office's June 2020 notice of proposed rulemaking and notification of inquiry with some modifications in response to public comments. The Office also addresses public comments submitted in response to the subjects of inquiry published in the notification of inquiry.

DATES: Effective March 29, 2021.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel, by email at *regans@copyright.gov,* Kevin R. Amer, Deputy General Counsel, by email at *kamer@copyright.gov,* or Nicholas R. Bartelt, Attorney-Advisor, by email at *niba@copyright.gov.* Each can be contacted by telephone at (202) 707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

The Copyright Office is in the midst of a multi-year modernization of its services and systems. One component of this comprehensive modernization initiative is the development of an online electronic system to process documents submitted for recordation, including notices of termination. In April 2020, the Office launched a limited pilot of this new system to allow pilot participants to submit certain transfers of ownership and other documents pertaining to copyright for recordation. Since then, the Office has recorded over 900 documents through the system while expanding functionality for the growing number of pilot users. Before implementing features to permit electronic recordation of notices of termination, the Office issued a notice of proposed rulemaking on June 3, 2020 (the ''NPRM'') to update its regulations governing recordation of notices of termination, clarify examination practices concerning terminations relating to multiple grants, and to solicit public comment on two related subjects of inquiry.[1]

A. Current Rules and Practices for Recording Notices of Termination

In enacting the Copyright Act of 1976, Congress created a process for authors to reclaim previously-granted rights in their works by terminating grants after a period of years has elapsed. As explained in the NPRM, authors may accomplish this by selecting an effective date of termination within a five-year window that is set by statute, preparing a notice of termination containing this date and other information necessary to identify which grant(s) of rights in which work(s) are being terminated,

[1] Modernizing Recordation of Notices of Termination, 85 FR 34150 (June 3, 2020) (notice of proposed rulemaking; notification of inquiry).

serving the notice on the grantee(s) or successor(s) in title, and recording a copy of the notice with the Copyright Office.[2] Recordation of the notice with the Office ''before the effective date of termination'' is ''a condition to its taking effect,'' and such ''notice shall comply, in form, content, and manner of service, with requirements that the Register of Copyrights shall prescribe by regulation.'' [3] More broadly, section 702 of the Act authorizes the Register to ''establish regulations . . . for the administration of the functions and duties made the responsibility of the Register under [title 17],'' and section 705(a) requires the Register to ''ensure that records of . . . recordations . . . are maintained, and that indexes of such records are prepared.'' [4]

In establishing regulations under this authority, the Office has long held the view that the ''required contents of the notice must not become unduly burdensome to grantors, authors, and their successors,'' who may lack knowledge of certain information, such as the applicable dates.[5] Therefore, to the extent permitted by the statute, the Office generally seeks to avoid outright rejection of termination notices submitted for recordation on grounds of technical noncompliance with Office regulations. Instead, the Office will often correspond with remitters to assist them in bringing deficient submissions into compliance with the relevant regulations [6]—for example, by supplying required information omitted from the original submission. This general policy in favor of recordation is particularly appropriate in light of the asymmetrical consequences associated with the determination of whether or not to record a notice.[7] As the Office's regulations state, recordation is ''not a determination by the Office of the notice's validity or legal effect'' and ''is without prejudice to any party claiming that the legal or formal requirements for effectuating termination (including the requirements pertaining to service and recordation of the notice of termination) have not been met.'' [8] By contrast, a refusal to record can ''permanently invalidate a notice of termination that is otherwise legally sound,'' and thereby deprive the copyright owner of the ability to reclaim rights in her work.[9]

II. The Final Rule

With this background and these policies in mind, the Office proposed several amendments to its regulations governing notices of termination to facilitate recordation and compliance with regulatory requirements. The Office received ten comments in response.[10] Commenters generally supported the broad goal of modernizing recordation of notices by improving efficiency and clarifying the Office's processes.[11] At the same time, comments also emphasized the importance of recordation to grantees, consistent and reliable examination practices, and encouraging preparation of notices that clearly communicate accurate information about the grants and works they identify.[12] Having considered these comments, the Office issues this final rule with modifications.

A. Timeliness

The Office proposed two updates to the rule governing timeliness. First, the Office proposed to relax the existing provision stating that the Office ''will refuse'' to record a notice that appears to be untimely, substituting the phrase ''may refuse.'' [13] Until recently, the provision said that the Office ''reserves the right to refuse recordation of a notice of termination.'' [14] The 2017 notice announcing the amendment of the provision to ''will refuse'' did not discuss the basis for that change.[15] As explained in the NPRM, the proposed rule would afford the Office additional discretion to record a notice in unusual cases—for example, where there is uncertainty about the date of a work's creation that could be relevant to the calculation of the termination window.[16] Most commenters supported giving the Office the ability to exercise this discretion, at least where there is some uncertainty whether a notice is in fact untimely.[17] Some commenters, however, expressed concerns about the Office recording notices that are clearly untimely, arguing that doing so would disserve both grantors, who may be able to correct and re-file such notices, and grantees, who desire confidence that the Office will not record notices that definitively fail to comply with statutory timing provisions.[18]

[2] 85 FR 34150–51 (citing 17 U.S.C. 203, 304(c)).

[3] 17 U.S.C. 203(a)(4), 304(c)(4). These provisions also apply to section 304(d)(1), another termination provision, which incorporates section 304(c)(4) by reference. *Id.* at 304(d)(1).

[4] *Id.* at 702, 705(a).

[5] Termination of Transfers and Licenses Covering Extended Renewal Term, 42 FR 45916, 45918 (Sept. 13, 1977) (''[W]e remain convinced that the required contents of the notice must not become unduly burdensome to grantors, authors, or their successors, and must recognize that entirely legitimate reasons may exist for gaps in their knowledge or certainty.''); *id.* at 45917 (''The preparation of notice[s] of termination will be occurring at a time far removed from the original creation and publication of a work and, in many cases, will involve successors of original authors having little, if any, knowledge of the details of original creation or publication.''); *id.* at 45918 (recognizing that ''it will commonly be the case that the terminating author, or the terminating renewal claimant . . . will not have a copy of the grant or ready access to a copy'').

[6] *See, e.g.,* Modernizing Copyright Recordation, 82 FR 22771, 22771 (May 18, 2017) (notice of proposed rulemaking) (summarizing the Office's document recordation process, which ''can . . . involve considerable correspondence with remitters to remedy deficient submissions before they can be recorded''); U.S. Copyright Office, *Compendium of Copyright Office Practices* sec. 2310.7 (3d ed. 2021) (''Compendium (Third)'') (Where a notice does not comply with recordation requirements, a ''recordation specialist may communicate with the remitter, may refuse to record the notice, or may refuse to index the notice as a notice of termination.'').

[7] The Office previously observed that adopting a permissive recordation policy is consistent with the statutory purpose of allowing authors to exercise their termination rights. *See* U.S. Copyright Office, *Analysis of Gap Grants under the Termination Provisions of Title 17* 3 (2010) (''Gap Grant Analysis'') (citing H.R. Rep. No. 94–1476, at 124 (1976); S. Rep. No. 94–473, at 108 (1975)).

[8] 37 CFR 201.10(f)(4); *see Ray Charles Found.* v. *Robinson,* 795 F.3d 1109, 1117–18 (9th Cir. 2015) (noting that validity and effect of notices can only be determined by a court of law, not the Copyright Office).

[9] Gap Grant Analysis at ii n.3.

[10] *See* Authors Alliance Comments; Joint Comments of The Authors Guild, American Photographic Artists, Songwriters Guild of America, Inc., Society of Composers & Lyricists, National Press Photographers Association, Professional Photographers of America, American Society of Media Photographers, Inc., The American Society for Collective Rights Licensing, The North American Nature Photography Association, and Graphic Artists Guild, Inc. (''Authors Guild et al.''); Linda Edell Howard Comments; Motion Picture Association (''MPA'') Comments; Music Artists Coalition (''MAC'') Comments; Nashville Songwriters Association International (''NSAI'') Comments; National Music Publishers Association (''NMPA'') Comments; Recording Academy Comments; Recording Industry Association of America (''RIAA'') Comments.

[11] *See* Authors Alliance Comments at 1; Joint Comments of Authors Guild et al. at 1–2; Edell Howard Comments at 1; MAC Comments at 1; NSAI Comments at 2; Recording Academy Comments at 2.

[12] *See, e.g.,* RIAA Comments at 2–3.

[13] 85 FR 34155.

[14] *See* Recordation of Notices of Termination of Transfers and Licenses; Clarifications, 74 FR 12554, 12556 (Mar. 25, 2009).

[15] *See* 85 FR 34151.

[16] *Id.*

[17] Joint Comments of Authors Guild et al. at 3–4; Edell Howard Comments at 3; NSAI Comments at 2; Recording Academy Comments at 2; MPA Comments at 5–6 (suggesting that if the proposed rule is adopted, ''the 'may' in the regulation should operate only as a safety valve to address particular unusual situations where an *apparently* untimely notice may not *actually* be untimely''); RIAA Comments at 3–4.

[18] Copyright Alliance Comments at 2 (taking no position on recordation of notices filed late, but commenting that notices that are facially premature should be refused to help grantors by making them aware the notices are defective and to spare grantees the burden of challenging validity in court); MPA at 6 (''[A]bsent unusual circumstances, the Office should maintain its practice of refusing to record notices that appear on their face to be untimely.''); NMPA Comments at 1–3 (commenting that the Office does not have discretion to record

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Although the Office is proceeding with this clarifying proposed amendment, to address concerns raised by commenters, it takes this opportunity to explain that the amendment is not intended to be substantive and is being adopted to harmonize the provision with regulatory language governing the rejection of documents submitted for recordation under section 205 of the Copyright Act.[19] Moreover, the amendment is not intended to alter the Office's examination practices for notices of termination. Rather, the Office will continue to examine notices for compliance with statutory timing provisions. On this topic, the Office recently stated that while it views recordation generally as a ''ministerial act,'' it has continued its ''more comprehensive review'' of notices of termination submitted for recordation.[20] Under current examination practices, if a notice appears to be untimely, the recordation specialist will correspond with the remitter to afford them the opportunity to amend, re-serve, and re-file notices where possible. If, in the judgment of the Office, a notice is definitely untimely and cannot be amended, the specialist will offer the remitter the option to record it as a document pertaining to copyright under section 205 of the Copyright Act.[21] Should the remitter refuse this option, the Office may then exercise its discretion to reject the notice.[22] Thus, while the Office typically still will decline to record a notice that it determines to be untimely and this adjustment signals no change in practice in that respect, the additional discretion provided by this change helps to advance the broader policy favoring recordation where legally permitted.[23]

Second, the proposed rule clarified the circumstances under which recordation of an untimely notice is barred by statute. In a 2017 interim rule, the Office amended the regulations to provide examples of situations in which a notice will be considered untimely.[24] One such example refers to cases where ''the date of recordation is *after* the effective date of termination.'' [25] Because the relevant statutory provisions provide that ''[a] copy of the notice shall be recorded in the Copyright Office *before* the effective date of termination, as a condition to its taking effect,'' [26] the NPRM proposed to amend this example to clarify that a date of recordation ''on or'' after the effective date of termination will be considered untimely.[27] RIAA agreed with proposed rule.[28] Linda Edell Howard and NSAI each opposed this change, asserting that a notice may be recorded if it is submitted to the Office on the effective date of recordation.[29] Because that interpretation is contrary to the statutory text, however, the final rule adopts the proposed amendment.

B. Harmless Errors

The NPRM proposed broadening the harmless errors exception, which currently applies only to ''errors in a notice,'' to apply equally to immaterial errors in complying with other regulatory provisions established by the Office. Under the proposed rule, any error in ''preparing, serving, or seeking to record a notice'' would be considered harmless, provided that the error does not materially affect the adequacy of the information required to serve the purposes of the termination statutes or ''materially affect . . . the Office's ability to record the notice.'' [30]

Comments on this proposed change were mixed. Three commenters fully supported the rule as proposed.[31] Another commenter, MPA, ''agree[d] with certain principles'' in the Office's proposal, but viewed the proposed language as ''overbroad and potentially ambiguous.'' [32] MPA further argued that errors in the manner of service itself should not be treated as harmless because as ''a technical procedure . . . strict compliance is typically required in the analogous litigation context,'' and proposed more narrowly tailored language.[33] Raising similar concerns, NMPA and RIAA opposed expanding the scope of the rule, contending that (1) errors in serving a notice are not and should not be considered harmless; and (2) the wording of the proposed rule suggests that an error that does not affect the Office's ability to record the notice may be considered harmless even if the error materially affects the ability of the notice to serve the purposes of the statute.[34]

While the Office will proceed with expanding the scope of the current harmless errors rule, it agrees that the language could more precisely describe its intended application. Therefore, the Office modifies the final rule as follows.

First, although an error in ''serving'' the notice would likely not be considered harmless because it would materially affect the notice's ability to serve the purposes of the statute, the Office has revised the provision to clarify that harmless errors in a *statement of service* shall not render a notice invalid.[35] The final rule also specifies that errors in ''indexing information,'' whether provided electronically or using a cover sheet such as the current Form TCS, may be harmless. In other words, if the cover sheet or electronic indexing information deviates in immaterial ways from the information provided on the notice itself, such errors may be harmless provided that the information in the notice itself adequately serves the purposes of the statute. Thus, the revised language clarifies that the harmless error provision extends only to immaterial errors in the notice, statement of service, or indexing information provided to the Office.

Second, because the final rule now expressly includes the statement of service and indexing information in this harmless error provision, it strikes the proposed language that certain errors may be harmless so long as they ''do not materially affect, in the Office's discretion, the Office's ability to record the notice.'' This language was intended

a notice it ''*knows* to be untimely''); RIAA Comments at 3–4.

[19] *See* 37 CFR 201.4(a) (''The Office may reject any document submitted for recordation that fails to comply with 17 U.S.C. 205, the requirements of this section, or any relevant instructions or guidance provided by the Office.''); *id.* § 201.4(e)(1), (e)(3)(i).

[20] *See* Modernizing Copyright Recordation, 82 FR 52213, 52218 & n.68 (Nov. 13, 2017) (interim rule).

[21] 37 CFR 201.10(f)(1)(ii)(B) (''If a notice of termination is untimely, the Office will offer to record the document as a 'document pertaining to a copyright' pursuant to § 201.4, but the Office will not index the document as a notice of termination.'').

[22] In a scenario where a notice is timely as to some—but not all—works identified, the recordation specialist will typically first correspond to provide the remitter an opportunity to amend, re-serve, and re-file where possible. Where it is too late to amend and re-serve the notice (*i.e.,* the termination window has closed or will close in less than two years) or the remitter otherwise declines to withdraw the submission, the specialist may record the document as a notice of termination, but only index the works for which the notice is timely.

[23] *See* 37 CFR 201.10(f)(4) (''Recordation of a notice . . . is without prejudice to any party claiming that the legal or formal requirements for effectuating termination (including the requirements pertaining to service and recordation of the notice of termination) have not been met, including before a court of competent jurisdiction.'').

[24] 82 FR 52220.

[25] 37 CFR 201.10(f)(1)(ii)(A) (emphasis added).

[26] 17 U.S.C. 203(a)(4)(A), 304(c)(4)(A) (emphasis added).

[27] 85 FR at 34152.

[28] RIAA Comments at 5.

[29] Edell Howard Comments at 4; NSAI Comments at 3.

[30] 85 FR 34155.

[31] Edell Howard Comments at 5; NSAI Comments at 3; Recording Academy Comments at 2.

[32] MPA Comments at 6.

[33] *Id.* at 6–7.

[34] NMPA Comments at 4–5; RIAA Comments at 5.

[35] *See* MPA Comments at 6 (proposing language similar to that adopted by the final rule).

to account for a situation where an error in a submission would not materially affect the adequacy of the information required to serve the purposes of the statute, but would affect the Office's ability to record the notice. For example, if a notice that complied with the statutory and regulatory requirements was timely served on the grantee, but the remitter subsequently failed to include the date of service in the statement of service submitted to the Office, the purposes of the statute would be served because the grantee would have adequate notice, yet the omission of the date of service would hamper the Office's ability to examine the notice for timeliness. Two commenters, NMPA and RIAA, contended that the proposed language could be read to suggest that an error could be considered ''harmless'' so long as it does not affect the Office's ability to record the notice even if the error *does* materially affect the information required to serve the statutory purpose.[36] The Office did not intend this interpretation of the proposed provision, and agrees that it is unnecessary to reference the statutory purpose in this provision in light of the newly added language specifying where a harmless error may occur—*i.e.,* ''in a notice, statement of service, or indexing information.'' Instead, reference to the statutory purpose remains part of the broader definition of what makes an error ''harmless.'' The final rule accordingly provides that ''an error is 'harmless' if it does not materially affect the adequacy of the information required to serve the purposes of 17 U.S.C. 203, 304(c), or 304(d), whichever applies.''[37]

C. Manner of Service

To modernize how service of notices may be effected, the Office proposed two additional permissible manners of service: (1) By reputable courier (*e.g.,* FedEx, UPS, DHL); and (2) by email where the grantee expressly consents.[38] With respect to the first change, commenters unanimously supported allowing notices to be delivered to grantees by reputable couriers.[39] The final rule accordingly adopts this proposal.[40]

With respect to email service, the proposed rule stated that service by email would be considered acceptable where the grantee or successor-in-title being served ''expressly consents to accept service in this manner.''[41] Most commenters supported permitting email service, at least in principle, while raising concerns about how this option might function in practice and offering alternative proposals.[42] A number of commenters questioned what ''express consent'' would entail and how it might be sought from and given by grantees. Three commenters considered obtaining express consent to be too burdensome for the terminating party,[43] and Authors Guild et al. recommended that the remitter instead be allowed to ''self-certify'' that the notice was sent to an email address, such as ''an alias dedicated to receiving legal notices,'' found after a ''reasonable investigation.''[44] Several commenters—both in support of and opposed to email service—noted that any consent must be provided from a person with authority to do so,[45] and sufficiently close in time to when a notice is served.[46] Others urged the Office to require safeguards to prevent notices from being sent to outdated emails or filtered out as spam or junk email.[47] Commenters proposed various requirements to address these concerns, including that the Copyright Office be copied on notices served by email,[48] that a terminating party obtain an acknowledgment of receipt from the grantee,[49] and that a physical courtesy copy be sent to the grantee.[50]

Based on these comments, the Office has revised the proposed rule to further specify conditions by which the terminating party may obtain consent from the grantee, and also to establish two alternate, blanket options by which grantees may signal their acquiescence to email service from any potential terminating parties. With respect to the direct authorization option, the final rule requires the terminating party to (1) obtain express consent in writing from the grantee, successor-in-title, or agent thereof who is duly authorized to accept service on its behalf; (2) within thirty days before service of the notice is made; and (3) send the notice to an email address provided to the terminating party by the grantee or successor-in-title. The first added requirement responds to commenter concerns that consent be given by someone with the appropriate authority. The Office has found a similar approach in a different context to be successful, namely permitting email service of notices of intention and statements of account under section 115 with the consent of the copyright owner or its authorized agent.[51] Since this practice

[36] *See* NMPA Comments at 4–5; RIAA Comments at 6.

[37] To reiterate, although the regulations provide that harmless errors shall not render a notice invalid, the Office's decision to record a notice is not a determination that any errors that the submission may contain are, in fact, harmless or that the notice itself is valid. *See* 37 CFR 201.10(e)(1), (f)(4).

[38] 85 FR 34155.

[39] *See* Joint Comments of Authors Guild et al. at 6; Copyright Alliance Comments at 2–3; MPA at 7–9; Edell Howard at 5; NMPA at 6; Recording Academy at 2; RIAA at 6–7. While supporting expanded physical delivery options, the Copyright Alliance observed that delivery services that require a signature may not be appropriate because of the risk that a delivery may not be accepted. Copyright Alliance Comments at 2–3. Although this is a valid concern, the Office retains the language that a notice be delivered by courier service because the grantor is in the best position to rectify any delivery issue.

[40] Some commenters proposed that the Office eliminate first class mail as an acceptable manner of service and instead allow only trackable mailing options such as priority or certified mail. *See* Copyright Alliance Comments at 2–3; MPA Comments at 8; NMPA Comments at 6; RIAA Comments at 6–7. While the Office acknowledges the benefits of using trackable services, it will retain first class mail as an acceptable manner of service because it remains an affordable, widely accessible option. Moreover, the Office is disinclined to eliminate first class mail as an option while it remains an acceptable method in federal courts to notify a defendant that an action has been commenced and request the defendant waive service of the summons. *See* Fed. R. Civ. P. 4(d)(1). The Office, however, encourages terminating parties to serve notices using trackable delivery options where feasible, agreeing with RIAA's observation that using these options ''would help avoid unnecessary disputes as to whether a grantee has received a termination notice and/or where the notice was sent.'' RIAA Comments at 7; *see also* MPA Comments at 7 n.11 (''[T]he benefits of having a clear record of service including, for example, the avoidance of litigation over whether service was properly effected are enormous, potentially representing many thousands of dollars in legal fees.'').

[41] 85 FR 34155.

[42] Joint Comments of Authors Guild et al. at 5; Edell Howard Comments at 5; MPA Comments at 8; NMPA Comments at 6–7; NSAI Comments at 4; Recording Academy Comments at 2.

[43] Joint Comments of Authors Guild et al. at 5; Edell Howard Comments at 5 (commenting that ''requiring express consent for service by email is burdensome and onerous''); NSAI Comments at 4 (''[R]equiring express consent by the grantee to accept service in one manner or another inappropriately shifts control to the grantee, who has no legal right to make the author's termination burdensome.'').

[44] Joint Comments of Authors Guild et al. at 5.

[45] *See* NMPA Comments at 6 (''[T]he Office should consider how grantees should designate the person(s) authorized to consent to and receive email service on behalf of the grantee.''); RIAA Comments at 8 (''Any consent to email service by a company must be clearly and affirmatively given by a duly authorized legal officer.'').

[46] *See* MPA Comments at 8 n.12 (noting that ''an email address that is valid at the time of the original grant is unlikely to remain valid several decades later, when notice of termination may be served''); RIAA Comments at 7 (proposing ''consent be obtained close in time to the date of service (*e.g.,* no more than 30 days prior to service), but in advance of (not simultaneous with) actual service'').

[47] *See* Joint Comments of Authors Guild et al. at 5; Copyright Alliance Comments at 3; MPA Comments at 8; NMPA Comments at 6; RIAA Comments at 7.

[48] Joint Comments of Authors Guild et al. at 5.

[49] Edell Howard Comments at 5; NMPA Comments at 6–7; RIAA Comments at 7.

[50] RIAA Comments at 7.

[51] *See* 37 CFR 201.18(f)(6) (outlining process by which list of works identified in a notice of

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was instituted in 2014, the majority of copyright owners have consented to service by email.[52] The Office welcomes future feedback on how this provision operates in practice from both terminating parties and grantees.

In establishing this provision, the Office notes that the requirement that consent be obtained within thirty days before a notice is served ensures that terminating parties obtain consent close in time to serving a notice and affords grantees greater predictability about when they can expect to receive the notice. If for any reason a grantee does not reply to a request for or declines consent, the terminating party continues to bear the burden of serving the notice in acceptable manner, provided there is still time within the statutory framework to do so.[53] For this reason, terminating parties seeking consent to serve a notice by email should afford sufficient time to arrange for an alternate method of service. Finally, the third added requirement—that the terminating party serve the notice to an email address provided by the grantee—protects both terminating parties and grantees from the risk that notices could be filtered as spam or sent to inactive or unmonitored email addresses. In this respect, service by email may be more reliable than physical service because mailed notices need only be sent to the last known address for the grantee, which may not be up-to-date.[54]

In addition to providing an avenue for express consent in this manner, the final rule establishes two other ways that grantees may generally opt in to accept email service for notices. First, a grantee or successor-in-title may designate and publicly post on its website an email address either for service of process in general or for service of notices of termination specifically.[55] Should a grantee no longer wish to accept service of notices by email, it can modify its policy or website accordingly. Because a grantee may update its policies or its website at any time, however, it would be prudent for the terminating party to verify the grantee's current policies and contact information by checking its website immediately prior to serving a notice by email.

Finally, the final rule will enable a grantee to opt in to email service in the event the Copyright Office establishes a public directory for these purposes and the grantee registers an email address in accordance with Office instructions. Two commenters proposed such a registry, akin to the directory the Office established and maintains for designated agents under the Digital Millennium Copyright Act.[56] Although the Office has no immediate plans for creating this option, it is taking this opportunity to establish the regulatory framework to facilitate such a directory in the future.

D. Identification of a Work

Under the current rule, a title is required to identify each work in a notice, and the original registration number is to be provided ''if possible and practicable.'' [57] The NPRM proposed to amend this provision to allow works to be identified by title, registration number, or both.[58]

Most commenters supported the overall goal of encouraging terminating parties to include registration numbers for works identified in a notice.[59] Several expressed concern, however, that allowing a work to be identified solely by registration number might lead to material errors and make it more difficult for grantees to identify works.[60] NMPA noted that ''catalogues of many music publishers include the titles of works, but do not always include registration numbers,'' [61] while RIAA observed that using a registration number alone may be inadequate to identify a sound recording that was registered as part of an album.[62] Commenters also questioned why the rule change was needed, as almost all grantors who have the registration number for a work would also have its title, particularly because a certificate of registration includes both.[63]

In light of the public comments, the Office concludes that the benefit of providing flexibility about how works may be identified in a notice is outweighed by the negative consequences that could flow from permitting a work to be identified by registration number alone. The final rule accordingly removes this proposed change. The Office will continue to require that each work in a notice be identified by title and, where possible and practicable, by the original registration number.[64]

E. Date of Recordation

Under the proposed rule, the date of recordation for a notice of termination would be determined by the date when the notice is received by the Office, irrespective of when the accompanying fee and statement of service are received.[65] The Office proposed this change because assigning a later date of recordation due to a fee miscalculation or immaterial filing error could deprive a terminating party of the opportunity to exercise their rights if the date assigned falls on or after the effective date of termination.[66] In support of the

intention may be submitted by email if the ''copyright owner or authorized agent states that such submission will be accepted''); *id.* § 210.6(g)(1)–(2) (permitting electronic service of monthly statements of account ''on either the copyright owner or an agent of the copyright owner with authority to receive Statements of Account on behalf of the copyright owner''); *id.* § 210.7(g)(1)–(2) (same process for annual statements of account).

[52] *See* Public Notice Regarding Timing Provisions for Persons Affected by COVID–19, U.S. Copyright Office, *https://www.copyright.gov/coronavirus/* (''In practice, the Office understands that a majority of copyright owners have generally elected electronic delivery, but a minority receive NOIs and SOAs by paper, either because they simply have not opted into electronic delivery, or, for a smaller minority, because they have affirmatively expressed a preference for paper.'').

[53] The RIAA proposed that ''[t]he regulations should state that failure of a grantee to respond to a consent request shall constitute a refusal to consent and that grantors will be held to the statutory timeframes notwithstanding any delay caused by the failure to respond at all or in a prompt manner.'' RIAA Comments at 8. Although the Office agrees that grantors bear the risk that a grantee may not respond to a request, it sees no need to further regulate compliance with governing statutory timeframes.

[54] *See* RIAA Comments at 2–3, 6–7 (noting that because ''a grantee's last known address is not necessarily the current owner's up-to-date address . . . the service requirements do not guarantee that the current rights owner will have actual (or timely) knowledge of a purported termination'').

[55] *Cf.* 37 CFR 201.18(a)(6) (providing that ''a copyright owner or an agent of a copyright owner with authority to receive Notices of Intention may make public a written policy that it will accept Notices of Intention to make and distribute phonorecords pursuant to 17 U.S.C. 115 . . . delivered by means (including electronic transmission) other than [by mail or reputable courier]'').

[56] *See id.* § 201.38; MPA Comments at 8–9; RIAA Comments at 7. The Office observes that this option is also akin to other filings administered by the Office, such as its list of transmitting entities publicly performing pre-1972 sound recordings requiring direct notice under the Music Modernization Act. *See* 37 CFR 201.36; Directory of Notices of Contact Information for Transmitting Entities Publicly Performing Pre-1972 Sound Recordings, U.S. Copyright Office, *https://www.copyright.gov/music-modernization/pre1972-soundrecordings/notices-contact-information.html.*

[57] 37 CFR 201.10(b)(1)(iii), (2)(iv).

[58] 85 FR 34154–55.

[59] Joint Comments of Authors Guild et al. at 6; Edell Howard Comments at 5–6; MPA Comments at 9; NMPA at 8; Recording Academy Comments at 2.

[60] Joint Comments of Authors Guild et al. at 6; Copyright Alliance Comments at 3–4; MPA Comments at 9–10; NMPA Comments at 8; RIAA Comments at 8–9.

[61] NMPA Comments at 8.

[62] RIAA Comments at 8–9.

[63] *See* Copyright Alliance Comments at 3–4; MPA Comments at 10; RIAA Comments at 8.

[64] Because the Office instituted this rulemaking, in part, to make compliance with its regulations governing notices of termination less burdensome, it declines to obligate parties to include both the title and registration number or include other identifying indicia, as some commenters proposed. *See* Edell Howard Comments at 5–6; RIAA Comments at 10.

[65] 85 FR 34155.

[66] *Id.* at 34153.

proposed rule, some commenters offered justifications similar to the Office's reasoning in the NPRM.[67] For example, Linda Edell Howard said the proposed change would avoid the ''harsh consequences that can result where a submission is missing a required element,'' which may not be discovered until after the effective date of termination.[68] Other commenters opposed the proposed rule, primarily out of concern that remitters will submit the required elements to record a notice ''piecemeal.'' [69] While NMPA did not oppose allowing remitters to retain their date of recordation when correcting ''nonmaterial errors,'' it expressed concern that the proposed change could result in parties failing to comply with the statutory service requirements and recommended that the statement of service be received before the effective date of termination.[70] Both MPA and RIAA opposed assigning a date of recordation before the effective date of termination if any element is received by the Office after the effective date.[71] As an alternative, MPA proposed that an ''incomplete package'' should be promptly recorded as a ''document pertaining to a copyright'' under section 205 of the Copyright Act, the record annotated with the missing and/or pending element(s), and a thirty-day time limit imposed for the remitter to provide the missing element(s).[72] Under MPA's proposal, if any missing elements were received after the effective date of termination, the Office should refuse to record the notice.[73]

After considering these comments, the Office is proceeding with the substance of the change proposed in the NPRM. The Office continues to believe that delinking the date of recordation from receipt of a complete submission is appropriate in order ''to mitigate the harsh consequences that can result where a submission is missing certain required elements.'' [74] To respond to the concerns of commenters who opposed this change, the Office clarifies its examination practices regarding incomplete recordation submissions. Where the statement of service is missing, the recordation specialist will correspond with the remitter to request it.[75] Likewise, where no fee is received or there is a balance resulting from underpayment (*e.g.,* the remitter miscalculated the number of works identified in the notice), the specialist will correspond.[76] In any event, whenever a recordation specialist corresponds with a remitter—whether to correct an immaterial error, obtain a statement of service, or ensure the fee is paid in full—a response must be received within forty-five days or the submission may be closed, *i.e.,* the document will not be recorded by the Office. In addition, remitters must certify under penalty of perjury that the recordation submission is ''complete to the best of [the remitter's] knowledge, information, and belief, and is provided in good faith.'' To the extent a remitter attempts to ''lock in'' a date of recordation by intentionally submitting elements piecemeal, he or she presumably would be running afoul of this requirement. Thus, existing procedural safeguards help to minimize abuse and ensure that recordation submissions are not held open indefinitely. The Office will monitor the effect of this adjustment as it administers the recordation system for notices of termination.

In addition, the final rule makes one modification to the proposed rule by adding the phrase ''a copy of'' before ''notice of termination.'' This change, recommended by Authors Guild et al., aligns the regulation with the statutory language requiring ''a copy of'' the notice to be submitted for recordation and dispels any potential confusion that the original notice should be submitted to the Office.[77]

III. Statements of Policy on Subjects of Inquiry

As part of the NPRM, the Office sought public comments on two additional subjects of inquiry: (1) Whether the Office should develop a sample form or template for use in preparing notices of termination; and (2) how the Office might address defective or untimely notices filed by third-party agents. In addition, some commenters offered proposals for regulatory change on various other termination-related matters. The Office addresses the comments received on these topics as follows.

A. Sample Form or Template

Many commenters supported the development of an optional, fillable form for use in preparing notices of termination.[78] For example, Authors Alliance offered its ''wholehearted support'' for a form, noting that termination rules are ''complicated and formalistic,'' while Authors Guild et al. opined that ''[a]n online form that creators could fill out to generate a letter would be ideal.'' [79] One commenter, however, opposed such a form, concluding that although ''75% of the boilerplate language in the notices is conducive to the benefits of a template . . . the 'meat and bones' of the actual notice . . . is so fact-sensitive that trying to fill in blanks in specific sections of a form notice would prove futile and onerous.'' [80]

With respect to the specific nature of such a form, several commenters urged the Office to include detailed instructions and guidance ''to help creators understand what information is required, where to find the required information, and how to proceed where there is uncertainty.'' [81] Others provided additional suggestions. NMPA recommended that the form distinguish between required and optional information.[82] MPA stressed that it should be made clear that use of any form supplied by the Office to create a notice would not be determinative of a notice's validity or legal effect, which could still be challenged by any party

[67] Edell Howard Comments at 5–6; NSAI Comments at 4 (noting ''it is not uncommon for errors to be made or documents to be omitted during the filing'' and the ''termination window may close before the filer is even given notice that something is missing, inadequate or incorrect''); Recording Academy Comments at 2 (noting there are ''innumerable clerical errors, unintended omissions, and other mistakes that could delay the timely recordation of a termination notice and force an author to lose the ability to effectuate termination'').

[68] Edell Howard Comments at 5–6.

[69] MPA Comments at 10; *see also* RIAA Comments at 10–11.

[70] NMPA Comments at 8–9.

[71] MPA Comments at 10–14; RIAA Comments at 10.

[72] MPA Comments at 14.

[73] *Id.* at 14.

[74] 85 FR 34153.

[75] Responding to NMPA's concern about ''grantors improperly submitting notices to the Office prior to serving them on grantees,'' *see* NMPA Comments at 8–9, the Office agrees that such a submission would be improper because it would not comply with requirement that the copy of the notice ''must be, be and certified to be, a true, correct, complete, and legible copy of the signed notice of termination *as served.*'' *See* 37 CFR 201.10(f)(1)(i)(A) (emphasis added).

[76] The U.S. Patent and Trademark Office exercises similar discretion by permitting the fee to be submitted after the filing date of a patent application. *See* 35 U.S.C. 111(a)(3), (b)(3).

[77] Joint Comments of Authors Guild et al. at 6.

[78] *See* Authors Alliance Comments at 1; Joint Comments of Authors Guild et al. at 6–7; Copyright Alliance Comments at 4; MPA Comments at 15; NSAI Comments at 10; NMPA Comments at 10; RIAA Comments at 12–13.

[79] Authors Alliance Comments at 1–2; Joint Comments of Authors Guild et al. at 6.

[80] Edell Howard Comments at 8.

[81] Authors Alliance Comments at 2; *see also* NMPA Comments at 10 (''[The form] could also be accompanied by clear and detailed instructions and guidance as to a remitter's obligations under the Copyright Act and under the Office's regulations, and could clearly state the requirements for service as well as the timeline for service, effective date of termination, and recordation''); RIAA Comments at 12–13 (suggesting a form follow the approach of questionnaires found in sections 2310.13(A)–(C) of the Compendium).

[82] NMPA Comments at 10.

claiming the legal or formal requirements have not been met.[83] And the Copyright Alliance noted that grantors who elect not to use a sample form should not be penalized or disadvantaged.[84]

The NPRM also inquired whether the Office should consider the development of other types of templates to assist terminating parties, such as an online notice builder that would allow parties to input information pertaining to the terminable grants, which would then be prepopulated into a draft notice. Commenters were generally supportive of this idea, though some expressed concerns about consequences stemming from user or system error. For example, NMPA observed that grantors may blame the notice builder for errors in notices and request ''leniency in complying with their obligations under the statute or regulations due to that reliance on the Copyright Office.'' [85] Noting similar concerns, the Copyright Alliance supported a notice builder with the caveat that ''there should be a prominent statement making grantors aware of the associated risks . . . and those who choose to use it should be required to assume those risks.'' [86] Authors Guild et al. likewise proposed a disclaimer if a ''fillable form'' were to be integrated into the electronic recordation system, adding that the Office could ''program[ ] automated alerts that would pop up if any information entered by the user in the termination form conflicts with information in the registration record'' so that the remitter could correct any errors.[87]

The Office will consider these helpful comments in connection with its development of further public guidance, such as developing a sample form and/or other online information or tools to assist in preparing notices of termination, together with enhanced educational materials. Meanwhile, the Office currently provides information about preparing, serving, and recording notices of termination—including charts that may be used to calculate the statutory windows for service and recordation under sections 203 and 304(c)—in the Compendium and on a dedicated web page.[88] The Office encourages interested parties to consult those existing resources and stay tuned for future information. The Office plans to continue stakeholder outreach to assess the extent to which additional help text or other resources could be integrated into the online recordation system as development proceeds.[89]

B. Third-Party Agents

In the NPRM, the Office noted stakeholder concerns regarding third-party agents who fail to comply with legal requirements when serving or recording termination notices on behalf of copyright owners. Noting that such failures can jeopardize termination rights if not discovered in a timely manner, the Office requested comment on whether any regulatory changes should be considered to address these concerns.[90]

The comments reflected some disagreement as to the pervasiveness of the problem and the appropriate means to address it. NMPA and RIAA suggested that the scope of the problem is unclear and cautioned against any regulatory change that would excuse untimeliness or other noncompliance with legal or regulatory requirements.[91] In their view, the proper recourse for parties harmed by the actions or inaction of their agents is to seek redress through malpractice or other claims under agency law. Linda Edell Howard and NSAI, however, cited several examples of third-party agents who apparently failed to respond to Office correspondence about defective or incomplete filings with the result that the issues were not, and could not be, resolved before the termination window expired.[92] To address the issue, NSAI proposed requiring third-party agents to provide complete contact information for the grantor, which would be verified by return-receipt mail upon receipt of the notice by the Office, and for the Office to copy the grantor on any subsequent correspondence with the agent.[93] Similarly, Edell Howard proposed revising Form TCS to allow remitters the option to provide contact information for any terminating party, for the Office to provide return receipts for notices submitted for recordation, and for the Office to copy the terminating party on any correspondence sent to the remitter.[94] Edell Howard and NSAI further suggested that the Office could make in-process recordation submissions publicly available.[95] Authors Guild et al. suggested that Office could consider ''a process whereby grantors may periodically designate and certify third-party agents using the [Electronic Copyright System].'' [96]

After considering these comments, the Office proposes no additional regulatory changes to address harm resulting from filing errors made by third-party agents. Instead, the Office will update its forms and practices by adding an optional field in both Form TCS and the electronic recordation system that remitters may use to provide email contact information for any terminating party. This contact information, like all information provided as part of a recordation submission, will be included in the public record. Where party contact information is provided, recordation specialists will copy the party on any correspondence with the remitter about errors or omissions as well to inform them when the certificate of recordation is issued. The Office declines to make the provision of this information mandatory because the Office understands that some parties may retain agents in part because they do not want their contact information to be made public.[97] The Office likewise declines to require Recordation staff to affirmatively notify terminating parties by return receipt that a notice has been filed, as such an obligation would add to the existing administrative burden of processing paper notices, thereby undermining the efficiency of the process for participants. Additional commenter proposals to make in-process notices publicly available, to allow terminating parties to designate agents, or to notify terminating parties when a notice is submitted for recordation will be considered as development of the online recordation

[83] MPA Comments at 15.

[84] Copyright Alliance Comments at 4.

[85] NMPA Comments at 10; *see* RIAA Comments at 13 (''While we understand the potential appeal of an online notice builder, we are concerned that efforts will be made to blame the notice builder if grantors provide incorrect or inadequate information and the notice builder creates a deficient notice.'').

[86] Copyright Alliance Comments at 4.

[87] Joint Comments of Authors Guild et al. at 6–7.

[88] *See* Compendium (Third) sec. 2310; Notices of Termination, U.S. Copyright Office, *https://www.copyright.gov/recordation/termination.html.*

[89] For information about collaboration and testing opportunities relating to the electronic recordation system pilot, contact the Office by email at *recordation-pilot@copyright.gov.*

[90] 85 FR at 34154.

[91] NMPA Comments at 11; RIAA Comments at 13; *see also* MPA Comments at 15–16.

[92] *See* Edell Howard Comments at 6–7; NSAI Comments at 2–3, 5–7.

[93] NSAI Comments at 7; *see* Copyright Alliance Comments at 4 (supporting NSAI's proposal).

[94] Edell Howard Comments at 9.

[95] *Id.* at 9; NSAI Comments at 7.

[96] Joint Comments of Authors Guild et al. at 7.

[97] NSAI suggested that ''[t]o avoid the concern of disclosing personally identifiable information in the public record, grantor contact information should be redacted in the record and available only to the Copyright Office for administration purposes.'' NSAI Comments at 7. Rather than selectively redact information provided as part of a recordation submission, which would make administration of this feature more onerous and thus expensive to remitters, the Office instead plans to make this field optional.

and public record pilot systems continues.[98]

List of Subjects in 37 CFR Part 201

Copyright, General provisions.

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR part 201 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 § 201.10:
■ a. By revising paragraphs (d)(1) and (e)(1);
■ b. In paragraph (f)(1)(ii)(A):
■ i. By removing ''will'' from the first and second sentences and adding
■ ii. By adding ''on or'' after ''the date of recordation is''; and
■ c. In paragraph (f)(3), by removing ''all of the elements required for recordation, including the prescribed fee and, if required, the statement of service, have been'' and adding in its place ''a copy of the notice of termination is''.

The revisions read as follows:

§ 201.10 Notices of termination of transfers and licenses.

* * * * *

(d) * * *

(1) The notice of termination shall be served upon each grantee whose rights are being terminated, or the grantee's successor in title, by:

(i) Personal service;

(ii) First class mail sent or by reputable courier service delivered to an address which, after a reasonable investigation, is found to be the last known address of the grantee or successor in title; or

(iii) Means of electronic transmission to:

(A) An email address designated for service of notices of termination and/or legal process that is listed as such on the website of the grantee or successor in title in a location accessible to the public;

(B) An email address provided to the terminating party by the grantee or successor in title, provided that the grantee, successor in title, or an agent thereof who is duly authorized to accept service on behalf of the grantee or successor in title expressly consents in writing to accept service at the address provided within thirty days before such service is made; or

(C) An email address for the grantee or successor in title provided in accordance with instructions provided on the Office's website in a public directory that the Office in its discretion may establish and maintain.

* * * * *

(e) * * *

(1) Harmless errors in a notice, statement of service, or indexing information provided electronically or in a cover sheet shall not render the notice invalid. For purposes of this paragraph, an error is ''harmless'' if it does not materially affect the adequacy of the information required to serve the purposes of 17 U.S.C. 203, 304(c), or 304(d), whichever applies.

* * * * *

Dated: February 8, 2021.

Shira Perlmutter,

Register of Copyrights and Director of the U.S. Copyright Office

Approved by:

Carla D. Hayden,

Librarian of Congress.

[FR Doc. 2021–03906 Filed 2–25–21; 8:45 am]

BILLING CODE 1410–30–P

[98] Public comments included several other proposals to modernize various aspects of the recordation process that are outside the scope of the proposed rule and subjects of inquiry. *See, e.g.,* Authors Alliance Comments at 3 (proposing that the Office ''consider developing or integrating tools that help authors understand the complex timing provisions governing notice and termination windows''); Edell Howard Comments at 3, 9, 10 (proposing, *inter alia,* that the Office allow the public to view recorded notices online and download certificates of recordation); NMPA Comments at 10 (proposing that works identified in notices be linked to the registration record); NSAI Comments at 8 (proposing, *inter alia,* that the Office might notify authors of when termination rights may be maturing or closing by using registration records). The Office will consider these proposals as its further regulatory and technology modernization efforts proceed, to the extent they are permitted by law.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 75

RIN 0991–AC16

Health and Human Services Grants Regulation

AGENCY: Office of the Assistant Secretary for Financial Resources (ASFR), Health and Human Services (HHS or the Department).

ACTION: Notification; postponement of effectiveness.

SUMMARY: The U.S. District Court for the District of Columbia in *Facing Foster Care et al.* v. *HHS,* 21–cv–00308 (D.D.C. Feb. 2, 2021), has postponed the effectiveness of portions of the final rule making amendments to the Uniform Administrative Requirements, promulgated on January 12, 2021. Those provisions are now effective August 11, 2021.

DATES: February 9, 2021.

FOR FURTHER INFORMATION CONTACT: Johanna Nestor at *Johanna.Nestor@hhs.gov* or 202–205–5904.

SUPPLEMENTARY INFORMATION: On January 12, 2021, the Department issued amendments to and repromulgated portions of the Uniform Administrative Requirements, 45 CFR part 75. 86 FR 2257. That rule repromulgated provisions of part 75 that were originally published late in 2016. It also made amendments to 45 CFR 75.300(c) and (d).

Specifically, the rule amended paragraph (c), which previously provided that it is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services based on non-merit factors such as age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation. Recipients must comply with this public policy requirement in the administration of programs supported by HHS awards. The rule amended paragraph (c) to provide that it is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services, to the extent doing so is prohibited by federal statute.

Additionally, the rule amended paragraph (d), which previously provided that in accordance with the Supreme Court decisions in *United States* v. *Windsor* and in *Obergefell* v. *Hodges,* all recipients must treat as valid the marriages of same-sex couples. This does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under state law as something other than a marriage. The rule amended paragraph (d) to provide that HHS will follow all applicable Supreme Court decisions in administering its award programs.

On February 2, the portions of rulemaking amendments to § 75.300 (and a conforming amendment at § 75.101(f)) were challenged in the U.S. District Court for the District of Columbia. *Facing Foster Care et al.* v. *HHS,* 21–cv–00308 (D.D.C. filed Feb. 2, 2021). On February 9, the court postponed, pursuant to 5 U.S.C. 705, the effective date of the challenged portions of the rule by 180 days, until August 11,

2021.[1] The Department is issuing this notification to apprise the public of the court's order. The portions of the rule not affected by the court's order remain in effect.

Norris Cochran,

Acting Secretary, Department of Health and Human Services.

[FR Doc. 2021–03967 Filed 2–24–21; 11:15 am]

BILLING CODE 4150–24–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 16–408; FCC 20–119; FR ID 17497]

Updates Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) eliminates the domestic coverage requirement for non-geostationary-satellite orbit, fixed-satellite service (NGSO FSS) systems.

DATES: Effective February 26, 2021.

FOR FURTHER INFORMATION CONTACT: Clay DeCell, International Bureau, *Clay.DeCell@fcc.gov,* 202–418–0803.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order, FCC 20–119, adopted August 26, 2020, and released August 28, 2020. The full text of the Second Report and Order is available at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-20-199A1.pdf.* To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

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 Further Notice of Proposed Rulemaking in this proceeding. The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. No comments were received on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Paperwork Reduction Act

This document eliminates, and thus does not contain new or revised, information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 44 U.S.C. 3501–3520. In addition, therefore, it does not contain any new or modified ''information burden for small business concerns with fewer than 25 employees'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Second Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Synopsis

In this Second Report and Order, the Commission eliminates the domestic coverage requirement for NGSO FSS systems. This action will provide greater regulatory certainty and operational flexibility to innovative NGSO FSS systems, while meeting the Commission's goal of promoting widespread NGSO service offerings.

The Commission's rules currently require NGSO FSS systems to be capable of providing continuous service within the fifty states, Puerto Rico, and the U.S. Virgin Islands. This domestic coverage requirement was originally adopted for mobile-satellite service (MSS) systems to promote efficient and ubiquitous service by satellite systems that are, as a general matter, unable to share spectrum. It was subsequently expanded to NGSO FSS systems to maximize use of a global spectrum resource allocated to this service, based on the assumption that NGSO FSS systems were inherently global in nature.

Since the Commission adopted its NGSO FSS domestic coverage requirements in 1997 and 2002, a number of NGSO FSS systems have been proposed that were not inherently global in nature. These systems have been designed to meet the requirements of certain underserved areas, where satellite services in general are especially valuable, such as in Alaska or on islands and ships in the Pacific Ocean. In addition, not all NGSO FSS systems may provide general consumer or enterprise broadband services. Instead, they may focus on a narrower set of services for which there is no significant nationwide demand or rationale for imposing nationwide coverage for these services. Furthermore, in 47 CFR 25.261 the Commission has developed new, more efficient sharing criteria among NGSO FSS systems to encourage multiple systems to operate in different areas of the United States simultaneously. These spectrum sharing possibilities among NGSO FSS systems also allow both broad coverage and specialized coverage systems to coexist. Accordingly, one NGSO FSS system with only partial coverage of the United States does not preclude another NGSO FSS system from covering the remainder of the United States or from providing full U.S. coverage. Indeed, allowing targeted or regional coverage may promote more intense and efficient use of this spectrum by enabling geographic sharing in addition to other forms of sharing already in use.

Retaining the domestic coverage rule requires design tradeoffs that may hamper or preclude innovative satellite system designs, which could otherwise better address market needs. Eliminating this rule serves the public interest by removing this unnecessary limit on design and operational flexibility, which imposes an artificial constraint on such technological evolution and innovation.

Cumulatively, NGSO FSS systems that have already been approved by the Commission will provide complete coverage of the United States, and the long reach of satellite technology, with the particular advantages of lower-latency associated with NGSO FSS systems, provide inherent incentives for future NGSO FSS systems to likewise provide coverage across the United States, especially the underserved areas. For example, the domestic coverage requirements were waived for the first, currently operating NGSO FSS system, but this system was later expanded to provide full coverage of the United States not because of a regulatory imposition but growing business rationales. We are therefore not persuaded by parties claiming that elimination of the domestic coverage requirement would weaken incentives for NGSO FSS operators to provide service in rural and remote areas, notably in Alaska.

For similar reasons, we disagree with commenters who argue that, absent the domestic coverage requirement, NGSO FSS operators will concentrate on high-population areas to the exclusion of rural and remote areas. NGSO FSS

[1] *See* Order, *Facing Foster Care et al.* v. *HHS,* No. 21–cv–00308 (D.D.C. Feb. 2, 2021) (order postponing effective date), ECF No. 18.

satellite technology is relatively efficient at serving rural and remote areas when compared with alternative, terrestrial services. NGSO FSS operators have more of an incentive to serve areas which terrestrial providers find it more costly to serve, and less of an incentive to serve high-population areas which already have multiple terrestrial suppliers that would be more challenging to compete against. So while some NGSO FSS operators might not provide coverage throughout the United States, they have the incentive to concentrate their efforts in those areas where they have a cost advantage, typically in areas where there might be fewer terrestrial providers, and where those terrestrial providers might have higher costs per subscriber than in more highly populated areas.

Given these incentives and the coverage provided by already-approved NGSO FSS systems, we also do not agree that, in eliminating this requirement, we should require NGSO FSS system applicants that will not serve the entire United States to demonstrate in their application that they will provide substantial service to the rural areas within their coverage area. Like with the domestic coverage requirement itself, without this requirement, we believe that systems already in operation or proposed will continue to provide coverage of all of the United States because of the technical and financial advantages that NGSO FSS satellite systems have in providing services to sparsely populated areas when compared with terrestrial alternatives that are relatively more costly to deploy in these areas. And providing greater flexibility to NGSO FSS system designers will allow greater deployment and more cost-effective solutions for consumers, including in rural areas.

We also disagree with one comment that the domestic coverage requirement is mandated by section 1 of the Communications Act of 1934, as amended (the ''Act''). The Commission has authorized a large variety of GSO satellite networks and terrestrial wireless systems without ever interpreting the Act to require that a single wireless applicant cover the entire United States. Nor did the Commission so interpret the Act when adopting the particular NGSO FSS coverage requirements at issue here. Indeed, the deregulatory and procompetitive purposes of the Telecommunications Act of 1996 suggest we should welcome competition in all its forms. The Commission fulfills its mission to ''to make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service'' by adopting rules and licensing policies that facilitate the authorization of multiple, innovative NGSO FSS systems capable of serving a variety of needs throughout the nation.

We also reject the approach of considering waivers on a case-by-case basis, as suggested by some commenters, as this would create regulatory uncertainty for NGSO FSS system proponents while they design systems that will ultimately seek a waiver. Even greater regulatory uncertainty, and higher costs of deployment, would result from Commission efforts to force the re-engineering of a satellite constellation until it complied with the domestic coverage requirement.

Instead, in light of NGSO FSS systems which have been licensed or granted U.S. market access to address underserved communities, including in Alaska, we conclude that affording satellite operators regulatory certainty and design flexibility will best serve the interests of connectivity across American communities. We therefore eliminate the domestic coverage requirement for NGSO FSS systems.

We will apply the rules and procedures we adopt in this Report and Order to pending space station applications and petitions for U.S. market access. In addition, we will allow current licensees and market access recipients to submit a simple letter request to modify particular conditions in their grants consistent with the rule changes adopted in this Order. The Commission may apply new procedures to pending applications if doing so does not impair the rights an applicant possessed when it filed its application, increase an applicant's liability for past conduct, or impose new duties on applicants with respect to transactions already completed. Applicants do not gain any vested right merely by filing an application, and the simple act of filing an application is not considered a ''transaction already completed'' for purposes of this analysis. Accordingly, applying our new rules and procedures to pending space station applications will not impair the rights any applicant had at the time it filed its application. Nor will doing so increase an applicant's liability for past conduct.

Final Regulatory Flexibility Analysis

As required by the RFA, an IRFA was incorporated in the Notice of Proposed Rulemaking in this proceeding. The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. No comments were received on the IRFA. This present FRFA conforms to the RFA.

A. Need for, and Objectives of, the Rules

The Order repeals a domestic coverage requirement for NGSO FSS satellite systems in order to provide additional regulatory certainty and flexibility, while encouraging the development of innovative satellite systems.

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

There were no comments filed that specifically addressed the IRFA.

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

D. Description and Estimate of the Number of Small Entities to Which 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 rules adopted herein. 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 describe and estimate the number of small entity licensees that may be affected by adoption of the final rules.

E. Satellite Telecommunications

This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving

communications signals via a system of satellites or reselling satellite telecommunications.'' The category has a small business size standard of $32.5 million or less in average annual receipts, under SBA rules. For this category, Census Bureau data for 2012 show that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, we estimate that the majority of satellite telecommunications providers are small entities.

The rule changes adopted in this Order will affect space station applicants and licensees. Generally, space stations cost hundreds of millions of dollars to construct, launch, and operate. Consequently, we do not anticipate that any space station operators are small entities that would be affected by our actions.

F. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The Order adopts rule changes that would affect compliance requirements for space station operators. As noted above, these parties rarely qualify as small entities.

The Order eliminates a geographic service requirement that restricts the design possibilities of certain NGSO FSS satellite systems. This action is designed to achieve the Commission's mandate to regulate in the public interest while minimizing burdens on all affected parties, including small entities.

G. Steps Taken To Minimize 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 and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

In this Order, the Commission removes the domestic coverage requirement for NGSO FSS satellite systems. This action will reduce burdens on the affected licensees, including any small entities.

H. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Report to Congress: The Commission will send a copy of the Second 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 Second Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Second Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Ordering Clauses

It is ordered, pursuant to sections 4(i), 7(a), 10, 303, 308(b), and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 160, 303, 308(b), 316, that this Second Report and Order *is adopted* and part 25 of the Commission's rules *are amended*.

It is further ordered that this Second Report and Order and the rules as amended herein *will become effective* as of the date of publication of a summary in the **Federal Register**.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Second Report and Order, including the Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 25

Administrative practice and procedure, Satellites.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

§ 25.146 [Amended]

■ 2. In § 25.146, remove and reserve paragraph (b).

■ 3. Revise § 25.217(b)(1) to read as follows:

§ 25.217 Default service rules.

* * * * *

(b)(1) For all NGSO-like satellite licenses, except as specified in paragraph (b)(4) of this section, for which the application was filed pursuant to the procedures set forth in § 25.157 after August 27, 2003, authorizing operations in a frequency band for which the Commission has not adopted frequency band-specific service rules at the time the license is granted, the licensee will be required to comply with the technical requirements in paragraphs (b)(2) through (4) of this section, notwithstanding the frequency bands specified in these sections: §§ 25.143(b)(2)(ii) (except NGSO FSS systems) and (iii) (except NGSO FSS systems), 25.204(e), and 25.210(f) and (i).

* * * * *

[FR Doc. 2021–04028 Filed 2–25–21; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 86, No. 37
Friday, February 26, 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 712

RIN 3133–AE95

Credit Union Service Organizations (CUSOs)

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) is seeking comment on a proposed rule that would amend the NCUA's credit union service organization (CUSO) regulation. The proposed rule would accomplish two objectives: Expanding the list of permissible activities and services for CUSOs to include originating any type of loan that a Federal credit union (FCU) may originate; and granting the Board additional flexibility to approve permissible activities and services. The NCUA is also seeking comment on broadening FCU investment authority in CUSOs.

DATES: Comments must be received by March 29, 2021.

ADDRESSES: You may submit written comments, identified by RIN 3133–AE95, 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 Proposed Rule: Credit Union Service Organizations (CUSOs)'' in the transmittal.
- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You may view all public comments on the Federal eRulemaking Portal (*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:* Jacob McCall, (703) 518–6624; *Legal:* Rachel Ackmann, Senior Staff Attorney, (703) 548–2601; or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Introduction

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 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] Accordingly, the FCU Act grants the Board broad rulemaking authority to ensure that the credit union industry and the NCUSIF remain safe and sound.

Under the FCU Act, FCUs have the authority to lend up to one percent of their paid-in and unimpaired capital and surplus, and to invest an equivalent amount, in CUSOs.[4] The NCUA regulates FCUs' lending to and investment in CUSOs in part 712 of its regulations (CUSO rule).[5] In general, a CUSO is an organization: (1) In which a FICU has an ownership interest or to which a FICU has extended a loan; (2) is engaged primarily in providing products and services to credit unions, their membership, or the membership of credit unions contracting with the CUSO; and (3) whose business relates to the routine daily operations of the credit unions it serves.[6] The CUSO rule provides a list of preapproved activities and services related to the routine daily operations of credit unions.[7]

The list of preapproved activities and services in the CUSO rule has not been substantively revised since 2008.[8] The 2008 final rule added two new categories of permissible CUSO activities: (1) Credit card loan origination and (2) payroll processing services. The 2008 final rule also added new examples of permissible CUSO activities and clarified that FCUs may invest in and loan to CUSOs that buy and sell participations in loans they are authorized to originate. In the 2008 final rule, commenters requested additional CUSO lending authority. Specifically, commenters requested the authority to make car loans, including direct lending and the purchase of retail installment sales contracts from vehicle dealerships, and to engage in payday lending. The NCUA, however, declined further expansions of CUSO lending authority at that time.[9]

II. Proposed Rule

The Board proposes to amend the CUSO rule to permit CUSOs to originate any type of loan that an FCU may originate and grant the Board additional flexibility to approve permissible CUSO activities and services outside of notice

[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. 1757.

[5] 12 CFR part 712. All sections of part 712 apply to FCUs. Sections 712.2(d)(2)(ii), 712.3(d), 712.4, and 712.11(b) and (c) apply to federally insured, state-chartered credit unions (FISCUs), as provided in § 741.222 of the chapter. FISCUs must follow the law in the state in which they are chartered with respect to the sections in part 712 that only apply to FCUs. Corporate credit union CUSOs are subject to part 704. Any amendments to part 704 would occur through a separate rulemaking and are not included in this proposed rule.

[6] *See* 12 CFR 712.1(d), 712.3(b), and 712.5.

[7] 12 CFR 712.5.

[8] 73 FR 79307 (Dec. 29, 2008).

[9] The NCUA's rationale for not extending CUSO lending authority more broadly is discussed in detail in Section II, Proposed Rule.

and comment rulemaking.[10] Each proposed change is discussed in detail below.

Expansion of Permissible CUSO Lending Activity

The Board has reconsidered its 2008 position on permitting CUSOs to engage in all types of lending. The Board now believes that permitting CUSOs to originate any type of loan that an FCU may originate may better enable FCUs to compete effectively in today's marketplace and better serve their members.

As discussed above, the FCU Act permits an FCU to lend to or invest in a CUSO that provides services associated with the routine and daily operations of credit unions. The NCUA has interpreted this statutory authority broadly to permit an FCU to lend to and invest in a CUSO that does most of the same activities and services permissible for an FCU.[11] However, to date CUSOs have not been permitted to originate certain kinds of loans.[12]

The NCUA historically has been reluctant to grant CUSOs general lending authority for all loans for several reasons. First, the NCUA has been hesitant in granting CUSOs authority to provide consumer loans as it may be perceived as a dilution of the FCU common bond requirement.[13] Specifically, because CUSOs may serve people that are not members of an FCU, the NCUA has been concerned about FCUs benefiting from CUSO profits generated from non-members. Second, the NCUA has also expressed concern that if member loans were being made by CUSOs, the NCUA would have a duty to examine such loans and that would lead to stricter NCUA examination authority over CUSOs.[14] Finally, the NCUA has also limited CUSO lending authority due to concerns that permitting CUSOs to engage in a core credit union function could negatively affect affiliated credit union services.[15]

Due to these concerns, the NCUA has previously found compelling justification for expanding CUSO lending authority for only four types of loans: (1) Business; (2) consumer mortgage; (3) student; and (4) credit cards.[16] In granting CUSOs these lending authorities, the NCUA has considered factors specific to each type of lending, such as whether these activities require specialized staff or economies of scale, and, as discussed below, whether loan aggregation was prevalent in the marketplace for the particular type of lending.

For example, when the NCUA permitted CUSOs to engage in credit card origination, the agency expressed concern that the scale, expertise, and back office operational support required to be successful in the credit card business was causing many FCUs without such resources to sell their credit card portfolio to other financial institutions.[17] The NCUA has also permitted expanded CUSO lending when economies of scale, which an individual FCU may not have, made lending more economically viable.[18] When the NCUA granted CUSOs the ability to originate consumer mortgage loans, it stated that economies of scale are essential to provide mortgage loans in a cost effective and professional manner.[19] The Board has stated that enabling FCUs to realize the benefits of economies of scale offered by CUSOs may allow FCUs to offer services to their members that otherwise could not be offered. For example, in permitting CUSOs to engage in business loan origination, the NCUA noted that FCUs could afford their small business members access to loans that the FCU may otherwise not be able to offer.[20] In addition, the NCUA has also permitted CUSOs to engage in lending where loan aggregation for resale on a secondary market is customary such as consumer mortgage and student loan origination.[21] The Board has previously cited the strict rules in the secondary market as justification for expanding CUSO lending authority.[22]

In past rulemakings, the NCUA has also discussed why the agency declined to expand CUSO lending authority more broadly. The NCUA stated that a primary rationale for allowing CUSOs to engage in a particular kind of loan origination is that an FCU may not possess the level of expertise or resources required for a successful loan program, whereas the CUSO may. With respect to vehicle loan origination, the NCUA stated that most FCUs are able to successfully originate vehicle loans and do not need the expertise of a CUSO.[23] Similarly, in declining to expand CUSO lending authority to general consumer loans, the NCUA described such loans as ''relatively easy to offer and process'' and did not believe such loans shared similar characteristics with other more sophisticated lending categories permissible for CUSOs.[24]

After reexamining CUSO authority, the Board is now considering whether it is appropriate to expand CUSO lending authority. It is currently permissible for CUSOs to engage in several types of lending, including consumer mortgage, business, student, and credit card. These categories of permissible CUSO lending represent several core areas of FCU business. The proposed rule would permit a reasonable expansion of CUSO lending authorities, and the Board expects the proposed rule would principally result in CUSOs originating automobile loans and small dollar consumer loans.

One reason the NCUA has historically been hesitant to expand CUSO lending is the concern that if CUSOs engaged in a core credit union function, it could negatively affect affiliated credit union services. As discussed above, CUSOs, however, have been originating loans that are also core FCU lending products for over 30 years without negatively impacting FCUs. Given this extensive history, the Board does not believe the expansion of CUSO lending authority in the proposed rule would be disruptive to FCUs.

The Board also believes that recent technological developments have further increased the benefits of allowing CUSOs to engage in expanded loan originations. As noted by the U.S. Treasury Department, consumer expectations for financial services are expanding with unprecedented speed. The market to originate loans has grown increasingly complex as technological changes, including digitization, help drive changes to the established lending landscape.[25] Digital lending is increasingly common throughout the household and small business lending market as consumers derive credit from a highly diverse mix of financial institutions and nonbank firms. For example, nonbank firms constitute a significant share of the consumer lending market and are increasingly

[10] Originate means to fund or make loans. This is separate from the already recognized authority of CUSOs to engage in loan support services that include loan processing and servicing under § 712.5(j).

[11] 12 CFR 712.5.

[12] *See,* 62 FR 11779 (Mar. 13, 1997).

[13] *Id.*

[14] *Id.*

[15] 68 FR 16450 (Apr. 4, 2003).

[16] *Id. See also,* 73 FR 79307 (Dec. 29, 2008).

[17] 73 FR 79307 (Dec. 29, 2008). *See also,* 73 FR 23982 (May 1, 2008).

[18] 51 FR 10353 (Mar. 26, 1986).

[19] *Id.*

[20] 68 FR 56537 (Oct. 1, 2003).

[21] 63 FR 10743 (Mar. 5, 1998).

[22] *Id.*

[23] 73 FR 79307 (Dec. 29, 2008).

[24] 63 FR 10743 (Mar. 5, 1998).

[25] See U.S. Treasury, ''A Financial System That Creates Economic Opportunity: Nonbank Financials, Fintech, and Innovation,'' July 2018. Available at *https://home.treasury.gov/sites/default/files/2018-07/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financi....pdf.*

targeting lending products traditionally provided by credit unions, including auto finance, small-dollar consumer lending, and unsecured consumer credit.[26] Nonbank companies now account for a significant percent of the outstanding non-mortgage consumer loan market.[27]

The U.S. Treasury Department noted that ''[n]onbank digital lenders have gained outsized attention in recent years, driven in part by their rapid rate of growth and employment of new technology-intensive approaches to lending.''[28] These firms, particularly lenders active in consumer and small business lending, have digitized the customer acquisition, origination, underwriting, and servicing processes. Moreover, these lenders are creating customer experiences that may be more timely and seamless than the techniques employed by some credit unions, and these changes also appear to reduce expenses, which lowers the cost of credit as well as providing greater access to credit. In contrast, many credit unions have yet to digitize their lending at a similar level. The U.S. Treasury Department stated that, ''[k]ey elements of digitization employed by new digital lenders are rapidly expanding across the wider banking and financial institution landscape and are expected to permeate all major lending segments over time.''[29]

To compete effectively in a market with a rising prevalence of these technology-based lenders, FCUs may need to rely increasingly on pooling their resources to fund CUSOs and to build the necessary infrastructure. The costs for research and development, acquisition, implementation, and specialized staff capable of managing these new technologies may be prohibitive for all but a very few of the largest FCUs. CUSOs may provide the means for FCUs to address these challenges and may enable FCUs to collaboratively develop technologies that better serve their members.

The Board recognizes that CUSOs provide significant value to the credit union industry by facilitating cooperation among credit unions. With CUSOs' collaborative business model, CUSOs are able to foster shared innovation among credit unions to achieve economies of scale, develop expertise, and better serve their members. These attributes allow CUSOs to offer financial services to credit union members more efficiently than an individual credit union may otherwise be able to offer, particularly for small credit unions.[30] The cooperation and transfer of knowledge among credit unions through CUSOs can have long-term positive implications for the safety and soundness of the credit union system.

Accordingly, under the proposed rule, CUSOs would be permitted to originate, purchase, sell, and hold any type of loan permissible for FCUs to originate, purchase, sell, and hold. Therefore, CUSOs could originate types of loans previously prohibited by the CUSO rule, including general consumer loans, direct auto loans, and unsecured loans and lines of credit. CUSOs could also purchase vehicle-secured retail installment sales contracts (RICs) from vehicle dealers. In proposing this change, the Board acknowledges and recognizes the importance of existing relationships that FICUs have with local vehicle dealers in connection with originating vehicle loans. The Board intends for this proposed rule to protect and maintain those relationships.

Under the proposed rule, CUSO originated loans would not be subject to the same restrictions as loans originated by FCUs. For example, part 701 of the NCUA's regulations imposes conditions on FCU lending relating to loan terms such as interest rate, maturity, and prepayment.[31] These restrictions would not apply to CUSO-originated loans because CUSOs, even wholly owned CUSOs, are separate entities from FCUs and are not subject to direct NCUA supervision. However, an FCU may not purchase a loan from a CUSO unless the loan meets the requirements of the NCUA's eligible obligations rule.[32] Similarly, an FCU may not purchase a loan participation from a CUSO unless it complies with the NCUA's loan participations rule.[33]

Loan Participations

In addition to specifically permitting CUSOs to engage in consumer mortgage, business, and student loan origination, the current CUSO rule also permits CUSOs to buy and sell participation interests in such loans. The inclusion of this authority to buy and sell participation interests in such loans stems from the FCU Act and the NCUA's loan participation rule, which classifies a CUSO as a ''credit union organization'' authorized to engage in the purchase and sale of loan participations.[34] The NCUA's loan participation rule, however, does not permit the sale to FCUs of participation interests in open-end, revolving credit.[35] Therefore, the current CUSO rule only permits CUSOs to originate credit card loans, but not the authority to buy and sell participation interests in credit card loans. To remain consistent with the NCUA's loan participation rule, this proposed rule would grant CUSOs the authority to only purchase and sell participation interests that are permissible for FCUs to purchase and sell.

CUSO Registry

Under the current CUSO rule, a FICU must obtain a written agreement from a CUSO the FCU loans to or invests in that the CUSO will annually submit to the NCUA a report containing basic registration information for inclusion in the NCUA's CUSO registry (CUSO Registry).[36] CUSOs that are engaged in complex or high-risk activities have additional obligations with respect to the CUSO Registry.[37] Under the current CUSO rule, complex or high-risk activities are defined to include credit and lending, including business loan origination, consumer mortgage loan origination, loan support services, student loan origination, and credit card loan origination.[38] For consistency, the proposed rule would remove the specific subcategories of lending and instead refer to all loan originations as complex or high risk. Lending activities are considered complex or high risk because they involve credit unions' core business function, tend to affect a large number of credit unions, and present a high degree of operational and financial risk.[39] Specifically, FICUs making loans to and investments in CUSOs engaged in credit and lending activities may be exposed to significant levels of credit, strategic, or reputation risks.[40]

[26] *Id.* at 87.

[27] *Id.* at 84.

[28] *Id.* at 85.

[29] *Id.*

[30] 47 FR 30462 (July 14, 1982). One of the original purposes of CUSOs was to permit small credit unions to join together to perform functions and engage in activities at a lesser cost than could be accomplished by an individual credit union.

[31] 12 CFR part 701.

[32] *See,* 12 CFR 701.23(b).

[33] 12 CFR 701.22.

[34] 12 U.S.C. 1757(5)(E); 12 CFR 701.22(a).

[35] 73 FR 79307 (Dec. 29, 2008).

[36] 12 CFR 712.3(d).

[37] *Id.* Complex or high-risk CUSOs must agree to include in their report: (1) A list of services provided to certain credit unions, and (2) the investment amount, loan amount, or level of activity of certain credit unions. Complex or high-risk CUSOs must also agree to provide the CUSO's most recent year-end audited financial statements to the NCUA. CUSOs engaged in credit and lending services are also required to report the total dollar amount of loans outstanding, the total number of loans outstanding, the total dollar amount of loans granted year-to-date, and the total number of loans granted year-to-date.

[38] 12 CFR 712.3(d)(5)(i).

[39] 78 FR 72537 (Dec. 3, 2013).

[40] *Id.*

Expansion of Permissible CUSO Activities to Other Activities as Approved by the Board in Writing

Currently, the list of permissible CUSO activities in § 712.5 includes many of the core services and activities associated with the daily and routine operations of credit unions. The list, however, does not provide the Board flexibility to consider additional activities and services without engaging in notice and comment rulemaking. In contrast, part 704 permits corporate CUSOs to engage in any category of activity as approved in writing by the NCUA and published on the NCUA's website.[41] Amending part 712 to be similar to part 704 has the potential to reduce regulatory burden by allowing the rule to expand as technology shapes the routine and daily operations of credit unions. Accordingly, under the proposed rule, the list of permissible activities in § 712.5 would include a catchall category for other activities as approved in writing by the NCUA and published on the NCUA's website. The proposed rule would also provide that once the NCUA has approved an activity and published that activity on its website, the NCUA would not remove that particular activity from the approved list, or make substantial changes to the content or description of that approved activity, except through formal rulemaking procedures.

III. Request for Comment on the Proposed Rule

The above proposed changes are consistent with the Board's ongoing efforts to reduce regulatory burden while assuring that FCUs operate in a safe and sound manner. The Board welcomes comment on all aspects of the proposal,[42] including, but not limited to, the following questions:

(1) Is the term ''any type of'' loan sufficiently clear such that FCUs would be able to comply with the proposed rule? Are there any types of loans that FCUs cannot originate that CUSOs currently do originate?

(2) Please discuss, and provide supporting information, on the costs of the development or acquisition, implementation, and maintenance of technology-based lending services.

(3) Would the proposed rule enable FCUs to offer additional technology-based lending services that FCUs may be otherwise unable to offer their members?

(4) The Board is also considering whether permitting CUSOs to originate additional types of loans would facilitate FCUs' access to securitization markets. It may be cost prohibitive for FCUs to securitize loans because securitizations are most cost effective with a large volume of loans. FCUs may also have difficulty aggregating loans to complete a securitization due to restrictions on purchasing loans and market concerns relating to varying underwriting standards. Therefore, the Board solicits comment on whether a CUSO could serve as an aggregator of loans to allow FCUs better access to securitization markets.

(5) Does the proposed rule expose FCUs to unnecessary safety and soundness risks? If so, are there steps the Board should consider to mitigate such risks?

a. For example, should the NCUA gather additional data about CUSO lending activities? If so, what data?

b. Should the NCUA consider additional constraints on an FCU's ability to purchase and hold loans originated by a CUSO?

c. Should the NCUA consider risk retention requirements for CUSO lending activities? The Board notes that FCUs that sell loan participations must maintain 10 percent of the loan.

(6) Would permitting CUSOs to engage in any type of lending as FCUs lead to additional reputational risk for FCUs? Loans from affiliated CUSOs may not comply with the same consumer protection limits as FCU loans, for example FCUs are subject to usury restrictions and a regulatory structure for issuing payday alternative loans (referred to as PALs).

(7) Does expanding CUSO lending authority to include additional core FCU lending categories create unnecessary competition for FCUs, particularly small FCUs?

(8) Instead of adopting a provision similar to the corporate CUSO provision that allows the NCUA to add additional categories of permissible activities for all CUSOs on its website, should the Board require individual FCUs to petition the Board for permission to lend to or invest in CUSOs that do additional activities or services not already listed in § 712.5?

(9) Should the Board publish on its website any conditions imposed on activities permissible through the approval process?

(10) Should the Board consider additional changes to the permissible activities list for CUSOs?

IV. Request for Comment on the Authority To Invest

An FCU's authority to lend to and invest in a credit union organization is provided for in two separate provisions of the FCU Act. The FCU Act authorizes an FCU to lend to credit union organizations provided the extensions of credit do not exceed one percent of the FCU's paid-in and unimpaired capital and surplus.[43] A credit union organization is defined as any organization, as determined by the Board, which is established primarily to serve the needs of its member credit unions and whose business relates to the daily operations of the credit unions they serve. In contrast, the FCU Act authorizes FCUs to invest up to one percent of its total paid in and unimpaired capital and surplus, with the approval of the Board, in the shares, stocks, or obligations of any other organization providing services which are associated with the routine operations of credit unions.[44]

There are significant differences between these lending and investment authorities in the FCU Act. The lending authority refers to ''credit union organizations'' and limits such entities to those that primarily serve the needs of their member credit unions. In contrast, the investment authority does not use the term ''credit union organization'', but instead generally refers to an ''organization''. In addition, the investment authority is not limited to organizations that primarily serve the needs of their member credit unions.

The NCUA has historically interpreted the lending and investment authority under the FCU Act as referring to the same types of organizations.[45] The NCUA's first CUSO rule explicitly stated that ''an organization described at Section 107(7)(I) of the [FCU Act], and a 'credit union organization,' as described at Section 107(5)(D) of the [FCU Act], are identical entities.''[46] The NCUA explained its interpretation in the preamble to its 1977 final rule after several commenters questioned the

[41] 12 CFR 704.11(d)(3)(ii). Approved activities are listed on the NCUA's website at: *https://www.ncua.gov/regulation-supervision/corporate-credit-unions/corporate-cuso-activities/approved-corporate-cuso-activities.*

[42] Many FCUs have considerable experience with CUSO lending relationships, therefore the Board is not providing the usual 60-day comment period for this proposal which would relieve a regulatory prohibition on certain forms of CUSO lending. *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.*

[43] 12 U.S.C. 1757(5)(D).

[44] 12 U.S.C. 1757(7)(I). Provided, however, that such authority does not include the power to acquire control directly or indirectly, of another financial institution, nor invest in shares, stocks or obligations of an insurance company, trade association, liquidity facility or any other similar organization, corporation, or association, except as otherwise expressly provided by the FCU Act.

[45] 44 FR 12401 (Mar. 7, 1979).

[46] *Id.*

definitional section of the proposed rule that defined ''credit union service corporation'' to be both the entity described at Section 107(7)(1) and Section 107(5)(D). In the preamble, the NCUA discussed that the thrust of the comments was that the definition was unduly restrictive and was not legally mandated. In response, the NCUA stated that ''in light of the mandate in the legislative history by Congressman St Germain that [investment] authority is to be 'exercised on a carefully controlled basis by NCUA,' the Administration feels justified in tying the two definitions together.'' [47] The NCUA also stated that it found no substantive difference in an organization ''which is established primarily to serve the needs of its member credit unions, and whose business relates to the daily operations of the credit unions they serve'' and an organization ''providing services which are associated with the routine operations of credit unions.'' [48] The NCUA also stated that the legislative history indicated that the House committee stands ready to review investment interpretation matters upon request from NCUA ''[s]hould a case be made for a more liberal interpretation of the provisions.'' [49]

The NCUA also noted that the FCU Act specifically ''intertwines the lending and investment powers. For instance, section 107(7)(A) allows a Federal credit union to ''invest'' its funds in ''loans exclusively to members.'' [50] Due to the preceding analysis, the NCUA believed that its interpretation of sections 107(5)(D) and 107(7)(I) were justified. The NCUA stated that ''[w]hile it may restrict the permissible activities for Federal credit unions in this field, legislative history mandates a rather conservative approach.'' [51]

The NCUA is now considering whether to reconsider this longstanding interpretation. Specifically, the NCUA is considering adopting separate definitions for the types of organizations that an FCU may invest in or lend to, which potentially would expand the types of organizations eligible for FCU investment. For example, the NCUA could permit FCUs to invest in organizations that do not primarily serve credit unions or credit union members, but still provide services that relate to the routine operations of FCUs. Under such an interpretation of the FCU Act, FCUs could potentially invest in companies that broadly serve the financial service community, but do not primarily serve credit unions and their members. For instance, an FCU could form an organization with community banks to create a lending platform that could be used by both the FCU's members and the community banks' customers.

The Board notes that the statutory limitations on the amount of investments would remain unchanged. An FCU is only authorized by the FCU Act to invest up to one percent of its total paid in and unimpaired capital and surplus in organizations. An FCU that has already invested one percent of its total paid in and unimpaired capital and surplus in CUSOs would not be authorized to invest any additional money. Instead, such an FCU would have to reallocate its investments if it sought to make any investments that were previously prohibited.

The Board invites comments on whether it should reconsider its longstanding interpretation of the lending and investment authorities under the FCU Act. In addition, the Board invites comments on the following specific questions:

1. Do specific provisions and the legislative history of the FCU Act suggest that the NCUA could take a less conservative approach to interpreting the lending and investment authorities?

2. The investment authority under the FCU Act states that Board approval is required before an FCU can make an investment in an organization. Currently, the regulation provides for this approval through the pre-approved permissible activities list in § 712.5. If the Board were to consider permitting investments that are not included in § 712.5, should approval be required for each investment to determine if the activities of the organization relate to the routine operations of FCUs? If the Board requires separate notice requirements, should current investments be grandfathered?

3. Please discuss appropriate safety and soundness limitations that the Board should consider if it reinterprets its interpretation. Should the Board impose a requirement that the FCU's ownership interest in the organization not be speculative? For example, should an FCU be permitted to have an investment in an organization that is still developing a product? If the Board reinterprets its interpretation, should the Board impose a separate capital treatment for new investments that are currently prohibited?

V. Regulatory Procedures

Regulatory Flexibility Act

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 (defined for purposes of the RFA to include credit unions with assets less than $100 million).[52] 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 proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule imposes no requirement or costs on small entities and only expands the list of permissible activities for CUSOs. The proposed rule would expand the list of activities that are considered complex or high risk for purposes of the CUSO Registry, however, the Board does not expect the additional reporting requirements to entail substantial regulatory burden. Accordingly, the NCUA certifies that the proposed rule would not have a significant economic impact on a substantial number of small FICUs.

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 is seeking comments on proposed revisions to the information collection requirements contained 12 CFR part 712, which has been submitted to the Office of Management and Budget (OMB) for review and approval under OMB control number 3133–0149. Under the proposed rule, CUSOs would be permitted to originate, purchase, sell, and hold any type of loan permissible for FCU's to originate, purchase, sell, and hold. Accordingly, CUSOs could originate categories of loans previously prohibited under the CUSO rule. The NCUA estimated 60 new CUSOs would enter into an agreement with a FICU (§ 712.3(d)); which would also require

[47] *Id.*

[48] *Id.*

[49] *Id.*

[50] *Id.*

[51] *Id.*

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

the FICU to obtain a written legal opinion prior to investing in a CUSO, as prescribed by § 712.4(b), and that these CUSO would be categorized a complex and be required to complete the expanded information via the CUSO Registry (§ 712.3(d)(5)). It is estimated that the increase in the number of respondents would increase total burden hours by 690.

OMB Control Number: 3133–0149.

Title of information collection: Credit Union Service Organizations (CUSOs), 12 CFR part 712.

Estimated number of respondents: 1,843.

Estimated number of responses per respondent: 1.

Estimated total annual responses: 1,843.

Estimated burden per response: 1.82.

Estimated total annual burden: 3,356.

The NCUA invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and cost of operation, maintenance, and purchase of services to provide information.

All comments are a matter of public records. Due to the limited in-house staff, email comments are preferred. Comments regarding the information collection requirements of this rule should be (1) mailed to: *PRAcomments@ncua.gov* with ''OMB No. 3133–0149'' in the subject line; faxed to (703) 837–2406, or mailed to Dawn Wolfgang, NCUA PRA Clearance Officer, National Credit Union Administration, 1775 Duke Street, Suite 6032, Alexandria, VA 22314, and to the (2) Office of Information and Regulatory Affairs, Office of Management and Budget, at *www.reginfo.gov/public/do/PRAMain.* Select ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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 proposal 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 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).[53]

List of Subjects in 12 CFR Part 712

Administrative practices and procedure, Credit, Credit unions, Insurance, Investments, 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 above, the Board proposes to amend 12 CFR part 712 as follows:

PART 712—CREDIT UNION SERVICE ORGANIZATIONS (CUSOs)

■ 1. The authority citation for part 712 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757(5)(D) and (7)(I), 1766, 1782, 1784, 1785, and 1786.

■ 2. Amend § 712.3 by revising paragraphs (d)(5)(i), (d)(5)(ii) introductory text, and (d)(5)(iii) to read as follows:

§ 712.3 What are the characteristics of and what requirements apply to CUSOs?

* * * * *

(d) * * *

(5) * * *

(i) Credit and lending:

(A) Loan support services, including servicing; and

(B) Loan origination, including originating, purchasing, selling, and holding any loan as described in § 712.5(q).

(ii) Information technology:

* * * * *

(iii) Custody, safekeeping, and investment management services for credit unions.

* * * * *

■ 3. Amend § 712.5 as follows:

■ a. Revise paragraph (a) introductory text;

■ b. In paragraph (a)(4), add a semicolon at the end of the paragraph;

■ c. Revise paragraph (b) introductory text;

■ d. In paragraph (b)(11), remove the period and add a semicolon in its place;

■ e. Remove paragraphs (c), (d), (n), and (s);

■ f. Redesignate paragraphs (e) through (t) as paragraphs (c) through (p);

■ g. Revise newly redesignated paragraphs (c) introductory text, (d) introductory text, (e) introductory text, (f) introductory text, (g) introductory text, and (h) introductory text;

■ h. In newly redesignated paragraph (h)(3), remove the word ''and'';

■ i. Revise newly redesignated paragraphs (i) introductory text, (j), (k), (l), and (m) introductory text;

■ j. In newly redesignated paragraph (m)(3), remove the period and add a semicolon in its place;

■ k. Revise newly redesignated paragraph (n);

■ l. In newly redesignated paragraph (o), remove ''*CUSO investments in non-CUSO service providers:*'' and remove the last period and add a semicolon in its place;

■ m. In newly redesignated paragraph (p), remove the period and add a semicolon in its place; and

■ n. Add new paragraphs (q) and (r).

The additions read as follows:

§ 712.5 What activities and services are preapproved for CUSOs?

* * * * *

(a) Checking and currency services:

* * * * *

(b) Clerical, professional and management services:

* * * * *

(c) Electronic transaction services:

* * * * *

(d) Financial counseling services:

* * * * *

(e) Fixed asset services:

* * * * *

(f) Insurance brokerage or agency:

* * * * *

(g) Leasing:

* * * * *

(h) Loan support services:

* * * * *

(i) Record retention, security and disaster recovery services:

* * * * *

(j) Securities brokerage services;

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

(k) Shared credit union branch (service center) operations;

(l) Travel agency services;

(m) Trust and trust-related services:

* * * * *

(n) Real estate brokerage services;

* * * * *

(q) Loan origination, originating, purchasing, selling, and holding any type of loan permissible for Federal credit unions to originate, purchase, sell, and hold, including the authority to purchase and sell participation interests that are permissible for Federal credit unions to purchase and sell; and

(r) Once the NCUA has approved an activity and published that activity on its website, the NCUA will not remove that particular activity from the approved list, or make substantial changes to the content or description of that approved activity, except through formal rulemaking procedures.

[FR Doc. 2021–01398 Filed 2–25–21; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0103; Project Identifier MCAI–2020–00604–E]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Turboshaft 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 Pratt & Whitney Canada Corp. (P&WC) PW210A and PW210S model turboshaft engines. This proposed AD was prompted by a report from the manufacturer that the Automated Damage Tracking System (ADTS) may under-count the number of cycles accrued by the impeller and the high-pressure compressor (HPC) rotor. The impeller and HPC rotor are both life-limited components and exceeding their published life limits could result in the failure of these components. This proposed AD would require the use of the manual low-cycle fatigue (LCF) counting method in place of the ADTS counting method to determine the number of cycles accrued by the impeller and HPC rotor. 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 12, 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 Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, J4G 1A1 Canada; phone: (800) 268–8000. 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–2021–0103; 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: Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; fax: (781) 238–7199; email: *barbara.caufield@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–2021–0103; Project Identifier MCAI–2020–00604–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 we receive 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 Barbara Caufield, 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

Transport Canada Civil Aviation (Transport Canada), which is the aviation authority for Canada, has issued Transport Canada AD CF–2020–13, dated April 28, 2020 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> The engine manufacturer has discovered that the Automated Damage Tracking System (ADTS) may under-count the number of cycles accrued by the impeller and the High Pressure (HP) compressor rotor. The impeller and HP compressor rotor are both life limited components and exceeding their published life limits could result in the failure of these components.
>
> Failure of the impeller or HP compressor rotor could result in the uncontained release of the impeller or the HP compressor rotor, and subsequently could result in damage to the engine, damage to the helicopter, and loss of control of the helicopter.
>
> This [Transport Canada] AD mandates the use of the Manual Low Cycle Fatigue (LCF) Counting method to ensure that the impeller and HP compressor rotor do not exceed their published life limits.

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–2021–0103.

FAA's Determination

This product has been approved by the aviation authority of Canada and is approved for operation in the United States. Pursuant to our bilateral agreement with Canada, Transport Canada has notified the FAA of the unsafe condition described in the MCAI and service information. The FAA is issuing this AD because the agency evaluated all the relevant information provided by Transport Canada and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pratt & Whitney Canada Corp. Alert Service Bulletin (ASB) No. PW210–72–A57142, Revision No. 1, dated March 26, 2020 (ASB No. PW210–72–A57142); and Pratt & Whitney Canada Corp. ASB No. PW210–72–A57143, Revision No. 1, dated March 26, 2020 (ASB No. PW210–72–A57143). ASB No. PW210–72–A57142 specifies procedures for calculating the correct, current LCF cycle count for the impeller and HPC rotor on PW210A model turboshaft engines. ASB No. PW210–72–A57143 specifies procedures for calculating the correct, current LCF cycle count for the impeller and HPC rotor installed on PW210S model turboshaft engines.

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

Other Related Service Information

The FAA reviewed Pratt & Whitney Canada Corp. Task 00–00–00–860–801 and Task 00–00–00–860–803 of Pratt & Whitney Canada Corp. Engine Maintenance Manual (EMM), Manual Part No. 30L2392, Airworthiness Limitations Section (ALS), both at Revision 13, dated September 28, 2020.

Pratt & Whitney Canada Corp. Task 00–00–00–860–801 of Pratt & Whitney Canada Corp. EMM, Manual Part No. 30L2392, identifies the LCF life limits for the impeller and HPC rotor. Pratt & Whitney Canada Corp. Task 00–00–00–860–803 of Pratt & Whitney Canada Corp. EMM, Manual Part No. 30L2392, specifies procedures for manually calculating the correct, current LCF cycle count for the impeller and HPC rotor and provides the formula for manually calculating the accumulated total cycles for the impeller and HPC rotor.

Proposed AD Requirements in This NPRM

This proposed AD would require the use of the manual LCF counting method in place of the ADTS counting method to determine the number of cycles accrued by the impeller and HPC rotor.

Interim Action

The FAA considers that this proposed AD would be an interim action. If final action is later identified, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 66 engines installed on helicopters 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
Manually calculate LCF cycles	1 work-hour × $85 per hour = $85	$0	$85	$5,610

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:

Pratt & Whitney Canada Corp.: Docket No. FAA–2021–0103; Project Identifier MCAI–2020–00604–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 12, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) PW210A and PW210S model turboshaft engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by a report from the manufacturer that the Automated Damage Tracking System (ADTS) may under-count the number of cycles accrued by the impeller and the high-pressure compressor (HPC) rotor, which could result in the failure of these components. The FAA is issuing this AD to prevent failure of the impeller and the HPC rotor. The unsafe condition, if not addressed, could result in the uncontained release of the impeller or the HPC rotor, damage to the engine, damage to the helicopter, and loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

Before exceeding 7,000 starts or 14,000 flight cycles since new (CSN) on the affected engine, or prior to removal of the engine from the aircraft for the purpose of sending the engine to a repair or overhaul facility, whichever occurs first after the effective date of this AD:

(1) Use the manual low-cycle fatigue (LCF) counting method to determine the accumulated LCF cycles for the impeller and the HPC rotor using paragraph 3., Accomplishment Instructions, of P&WC Alert Service Bulletin (ASB) PW210–72–A57142, Revision 1, dated March 26, 2020 or PW210–72–A57143, Revision 1, dated March 26, 2020, as applicable for the engine model.

(2) After performing the actions required by paragraph (g)(1) of this AD, use the manual LCF counting method specified in paragraph (g)(1) of this AD to count subsequent LCF cycles on the impeller and HPC rotor. Do not use the ADTS to count subsequent LCF cycles on the impeller or the HPC rotor.

(h) Definition

For the purpose of this AD, a ''start'' is an engine start followed by one or more flights.

(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 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.

(j) Related Information

(1) For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; fax: (781) 238–7199; email: *barbara.caufield@faa.gov*.

(2) Refer to Transport Canada Civil Aviation (TCCA) AD CF–2020–13, dated April 28, 2020, for more information. You may examine the TCCA AD in the AD docket at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2021–0103.

(3) For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, J4G 1A1, Canada; phone: (800) 268–8000. 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 February 19, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03814 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0099; Project Identifier AD–2020–01272–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company 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 The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes. This proposed AD was prompted by significant changes made to the airworthiness limitations (AWLs) related to fuel tank ignition prevention and the nitrogen generation system. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate the latest revision of the AWLs. 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 12, 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 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.

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–2021–0099; 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: Rebel Nichols, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3556; email: *rebel.nichols@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–2021–0099; Project Identifier AD–2020–01272–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 the 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 proposed AD.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Rebel Nichols, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3556; email: *rebel.nichols@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, the FAA issued a final rule titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements that rule included Amendment 21–78, which established Special Federal Aviation Regulation No. 88 (SFAR 88) at 14 CFR part 21. Subsequently, SFAR 88 was amended by Amendment 21–82 (67 FR 57490, September 10, 2002; corrected at 67 FR 70809, November 26, 2002), Amendment 21–83 (67 FR 72830, December 9, 2002; corrected at 68 FR 37735, June 25, 2003, to change ''21–82'' to ''21–83''), and Amendment 21–101 (83 FR 9162, March 5, 2018).

Among other actions, SFAR 88 requires certain type design (*i.e.,* type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the final rule published on May 7, 2001, the FAA intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, the FAA has established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with another latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

This proposed AD was prompted by significant changes made to the AWL related to fuel tank ignition prevention and the nitrogen generation system. This condition, if not addressed, could result in the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

The FAA has determined that accomplishing the revision required by paragraph (g) of this proposed AD would terminate the following requirements for that airplane:

- The revision required by paragraphs (g) and (h) of AD 2008–11–01 R1, Amendment 39–16145 (74 FR 68515, December 28, 2009).
- The revision required by paragraph (h) of AD 2010–06–10, Amendment 39–16234 (75 FR 15322, March 29, 2010) (AD 2010–06–10).
- The revision required by paragraph (k) of AD 2011–25–05, Amendment 39–16881 (77 FR 2442, January 18, 2012) (AD 2011–25–05).
- The revision required by paragraph (n) of AD 2013–25–02, Amendment 39–17698 (79 FR 24541, May 1, 2014) (AD 2013–25–02).
- The revision required by paragraph (g) of AD 2014–08–09, Amendment 39–17833 (79 FR 24546, May 1, 2014) (AD 2014–08–09).
- The revision required by paragraph (h) of AD 2014–20–02, Amendment 39–17975 (79 FR 59102, October 1, 2014) (AD 2014–20–02).
- The revision required by paragraphs (i)(3)(i) and (ii) of AD 2018–20–13, Amendment 39–19447 (83 FR 52305, October 17, 2018) (AD 2018–20–13).

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing 767–200/300/300F/400ER Special Compliance Items/Airworthiness Limitations, D622T001–9–04, dated January 2020. This service information describes AWLs that include airworthiness limitation instructions (ALIs) and critical design configuration control limitations (CDCCLs) tasks related to fuel tank ignition prevention and the nitrogen generation system. 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 proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate the latest revision of the AWLs.

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

Costs of Compliance

The FAA estimates that this proposed AD affects 500 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. 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 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 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:

The Boeing Company: Docket No. FAA–2021–0099; Project Identifier AD–2020–01272–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by April 12, 2021.

(b) Affected ADs

This AD affects the ADs specified in paragraphs (b)(1) through (7) of this AD.

(1) AD 2008–11–01 R1, Amendment 39–16145 (74 FR 68515, December 28, 2009) (AD 2008–11–01 R1).

(2) AD 2010–06–10, Amendment 39–16234 (75 FR 15322, March 29, 2010) (AD 2010–06–10).

(3) AD 2011–25–05, Amendment 39–16881 (77 FR 2442, January 18, 2012) (AD 2011–25–05).

(4) AD 2013–25–02, Amendment 39–17698 (79 FR 24541, May 1, 2014) (AD 2013–25–02).

(5) AD 2014–08–09, Amendment 39–17833 (79 FR 24546, May 1, 2014) (AD 2014–08–09).

(6) AD 2014–20–02, Amendment 39–17975 (79 FR 59102, October 1, 2014) (AD 2014–20–02).

(7) AD 2018–20–13, Amendment 39–19447 (83 FR 52305, October 17, 2018) (AD 2018–20–13).

(c) Applicability

This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, having line numbers (L/N) 1 through 1200 inclusive.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by significant changes made to the airworthiness limitations (AWLs) related to fuel tank ignition prevention and the nitrogen generation system. The FAA is issuing this AD to address the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 60 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information in Section A, including Subsections A.1, A.2, A.3, A.4, and A.5, of Boeing 767–200/300/300F/400ER Special Compliance Items/Airworthiness Limitations, D622T001–9–04, revision January 2020; except as provided by paragraph (h) of this AD. The initial compliance times for the airworthiness limitation instructions (ALI) tasks are within the applicable compliance times specified in paragraphs (g)(1) through (14) of this AD:

(1) For AWL No. 28–AWL–01, ''External Wires Over Auxiliary (Center) Fuel Tank'': Within 144 months after the most recent inspection was performed as specified in AWL No. 28 AWL 01, or within 12 months after the effective date of this AD if no initial inspection has been performed or the last inspection date is unknown.

(2) For AWL No. 28–AWL–05, ''Lightning Protection—Hydraulic Line Fuel Tank Penetration Bonding Path'': Within 25,000 flight hours or 72 months, whichever occurs first, since the most recent inspection was performed as specified in AWL No. 28–AWL–05, or within 30 days after the effective date of this AD if no initial inspection has been performed or the last inspection date is unknown.

(3) For AWL No. 28–AWL–18, ''Fuel Quantity Indicating System (FQIS)—Out of Tank Wiring Lightning Shield to Ground Termination'': Within 144 months after the most recent inspection was performed as specified in AWL No. 28–AWL–18, or within 12 months after the effective date of this AD if no initial inspection has been performed or the last inspection date is unknown.

(4) For AWL No. 28–AWL–20, ''Auxiliary (Center) Tank Override Fuel Pumps Auto Shutoff Circuit'': Within 12 months after the most recent inspection was performed as specified in AWL No. 28–AWL–20; or within 12 months after accomplishment of the actions specified in Boeing Service Bulletin 767–28A0083, or Boeing Service Bulletin 767–28A0084, as applicable; whichever is later. If no initial inspection was performed or the last inspection date is unknown, then within 30 days after the effective date of this AD.

(5) For AWL No. 28–AWL–21, ''AC and DC Fuel Pump Fault Current Bonding Jumper Installation'': Within 72 months after the most recent inspection was performed as specified in AWL No. 28–AWL–21, or within 6 months after the effective date of this AD if no initial inspection has been performed or the last inspection date is unknown.

(6) For AWL No. 28–AWL–27, ''Over-Current and Arcing Protection Electrical Design Features Operation—AC Fuel Pump Ground Fault Interrupter (GFI)'': Within 12 months after the most recent inspection was performed as specified in AWL No. 28–AWL–27, or within 12 months after accomplishment of the actions specified in Boeing Service Bulletin 767–28A0085, whichever is later. If no initial inspection was performed or the last inspection date is unknown, then within 30 days after the effective date of this AD.

(7) For AWL No. 28–AWL–28, ''Auxiliary (Center) Tank Override/Jettison Fuel Pump Failed On Protection System'': Within 12 months after the most recent inspection was performed as specified in AWL No. 28–AWL–28, or within 12 months after accomplishment of the actions specified in Boeing Service Bulletin 767–28A0085, whichever is later. If no initial inspection was performed or the last inspection date is unknown, then within 30 days after the effective date of this AD.

(8) For AWL No. 28–AWL–35, ''Cushion Clamps and Teflon Sleeving Installed on Out-of-Tank Wire Bundles Installed on Brackets that are Mounted Directly on the Fuel Tanks'': Within 144 months after the most recent inspection was performed as specified in AWL No. 28–AWL–35 or within 144 months after accomplishment of the actions specified in Boeing Service Bulletin 767–57A0102, whichever is later. If no initial inspection was performed or the last inspection date is unknown, then within 12 months after the effective date of this AD.

(9) For AWL No. 28–AWL–37, ''FQIS BITE Test (Auxiliary (Center) Tank Circuit Test)'': For Model 767–300F airplanes L/N 1094 and subsequent, within 750 flight hours after the most recent inspection was performed as specified in AWL No. 28–AWL–37, or within 30 days after the effective date of this AD if no initial inspection has been performed or the last inspection date is unknown.

(10) For AWL No. 28–AWL–38, ''Fuel Level Sensing System (FLSS) Dry Capacitance Test'': For Model 767–300F airplanes L/N 1096 and subsequent, within 750 flight hours after the most recent inspection was performed as specified in AWL No. 28–AWL–38, or within 30 days after the effective date of this AD if no initial inspection has been performed or the last inspection date is unknown.

(11) For AWL No. 28–AWL–101, ''Engine Fuel Suction Feed Operational Test'': Within 7,500 flight hours or 36 months, whichever occurs first since the most recent inspection was performed as specified in AWL No. 28–AWL–101, or within 30 days after the effective date of this AD if no initial inspection has been performed or the last inspection date is unknown.

(12) For AWL No. 28–AWL–102, ''Fuel Quantity Indicating System (FQIS)—Low Fuel and Fuel Config Indication Test'': Within 750 flight hours after the most recent inspection was performed as specified in AWL No. 28–AWL–102; or within 750 flight hours after accomplishment of the actions specified in Boeing Service Bulletin 767–31–0295 or Boeing Service Bulletin 767–31–0302, as applicable; whichever is later. If no initial inspection was performed or the last inspection date is unknown, then within 30 days after the effective date of this AD.

(13) For AWL No. 47–AWL–04, ''Nitrogen Generation System (NGS)—Nitrogen-Enriched Air (NEA) Distribution Ducting'': For L/N 993 and subsequent and all airplanes that have incorporated Boeing Service Bulletin 767–47–0001, within the applicable interval specified in AWL No. 47–AWL–04 since the most recent inspection was performed as specified in AWL No. 47–AWL–04. If no initial inspection was performed or the last inspection date is unknown, then within 4 months after the effective date of this AD.

(14) For AWL No. 47–AWL–05, ''Nitrogen Generation System (NGS)—Cross Vent Check Valve'': For L/N 993 and subsequent and all airplanes that have incorporated Boeing Service Bulletin 767–47–0001, within the applicable interval specified in AWL No. 47–AWL–05 since the most recent inspection was performed as specified in AWL No. 47–AWL–05. If no initial inspection was performed or the last inspection date is unknown, then within 4 months after the effective date of this AD.

(h) Additional Acceptable Wire Types and Sleeving

As an option, when accomplishing the actions required by paragraph (g) of this AD, the changes specified in paragraphs (h)(1) and (2) of this AD are acceptable.

(1) Where AWL No. 28–AWL–09 identifies wire types BMS 13–48, BMS 13–58, and BMS 13–60, the following acceptable wire types and cables can be added to AWL No. 28–AWL–09: MIL–W–22759/16, SAE AS22759/16 (formerly M22759/16), MIL–W–22759/32, SAE AS22759/32 (formerly M22759/32), MIL–W–22759/34, SAE AS22759/34 (formerly M22759/34), MIL–W–22759/41, SAE AS22759/41 (formerly M22759/41), MIL–W–22759/86, SAE AS22759/86 (formerly M22759/86), MIL–W–22759/87, SAE AS22759/87 (formerly M22759/87), MIL–W–22759/92, and SAE AS22759/92 (formerly M22759/92); and MIL–C–27500 and NEMA WC 27500 cables that are constructed from these military or SAE specification wire types, as applicable.

(2) Where AWL No. 28–AWL–09 identifies TFE–2X Standard wall for wire sleeving, the following sleeving materials are acceptable: Roundit 2000NX and Varglas Type HO, HP, or HM, Grade A.

(i) 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 (k) of this AD.

(j) Terminating Action for Certain AD Requirements

Accomplishment of the revision required by paragraph (g) of this AD terminates the requirements specified in paragraphs (j)(1) through (7) of this AD for that airplane:

(1) The revision required by paragraphs (g) and (h) of AD 2008–11–01 R1.

(2) The revision required by paragraph (h) of AD 2010–06–10.

(3) The revision required by paragraph (k) of AD 2011–25–05.

(4) The revision required by paragraph (n) of AD 2013–25–02.

(5) The revision required by paragraph (g) of AD 2014–08–09.

(6) The revision required by paragraph (h) of AD 2014–20–02.

(7) The revision required by paragraphs (i)(3)(i) and (ii) of AD 2018–20–13.

(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 responsible Flight Standards 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 responsible Flight Standards 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 Rebel Nichols, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3556; email: *rebel.nichols@faa.gov.*

(2) 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.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on February 12, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03858 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0092; Project Identifier MCAI–2020–01501–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held by Eurocopter France) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2010–16–51, which applies to certain Eurocopter France (now Airbus Helicopters (Airbus)) Model SA330J helicopters. AD 2010–16–51 requires inspecting for a gap between the main gearbox (MGB) oil cooling fan assembly (fan) rotor blade and the upper section of the guide vane bearing housing and depending on the results, replacing the two fan rotor shaft bearings with two airworthy bearings. Since the FAA issued AD 2010–16–51, Airbus has developed an improved MGB fan rotor shaft bearing design. This proposed AD would retain the inspection required by AD 2010–16–51, and propose installing improved MGB fan rotor shaft bearings and repetitively inspecting the new improved MGB fan rotor shaft bearings, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). 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 12, 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 EASA material that is proposed for 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 material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0092.

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–2021–0092; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mahmood Shah, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5538; email *Mahmood.g.shah@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–2021–0092; Project Identifier MCAI–2020–01501–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposal.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Mahmood Shah, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5538; email *Mahmood.g.shah@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA issued AD 2010–16–51, Amendment 39–16410 (75 FR 53857, September 2, 2010) (AD 2010–16–51), which applies to all Eurocopter France (now Airbus) Model SA330J helicopters. AD 2010–16–51 requires, using a 0.2 millimeter (mm) (0.008 inch) feeler gauge attached to a rigid rod, inspecting for a gap between a fan rotor blade and the upper section of the guide vane bearing housing over the entire width of the blade. If the feeler gauge can be inserted between the blade and the housing (a gap greater than or equal to 0.2 mm), AD 2010–16–51 requires no further action. If the feeler gauge cannot be inserted between the blade and the housing (a gap less than 0.2 mm), AD 2010–16–51 requires replacing the two fan rotor shaft bearings with two airworthy bearings and re-inspecting for the minimum gap. The FAA issued AD 2010–16–51 to prevent rotor burst of the MGB fan, damage to the hydraulic lines and flight controls, and subsequent loss of control of the helicopter.

Actions Since AD 2010–16–51 Was Issued

Since the FAA issued AD 2010–16–51, Airbus has developed an improved MGB fan rotor shaft bearing design and issued new service information.

Accordingly, the EASA, which is the Technical Agent for the Member States

of the European Union, has issued EASA AD No. 2020–0171, dated July 28, 2020 (EASA AD 2020–0171), to correct an unsafe condition for all Airbus Helicopters, Eurocopter, Eurocopter France, Aérospatiale, Sud Aviation Model SA 330 J helicopters.

This proposed AD was prompted by the newly developed MGB fan rotor shaft bearing design. The FAA is proposing this AD to prevent rotor burst of the MGB fan, damage to the hydraulic lines and flight controls, and subsequent loss of control of the helicopter. See the EASA AD for additional background information.

Further, since the FAA issued AD 2010–16–51, Eurocopter France changed its name to Airbus Helicopters. This proposed AD reflects that change.

Related Service Information Under 1 CFR Part 51

For MGB fan rotor shaft bearings (both rear and front) part number (P/N) 704A33651114 (manufacturer P/N (MP/N) 205FFTX74K6–G33) and MGB fan rotor shaft bearings (both rear and front) P/N 704A33651268 (MP/N 594918), EASA AD 2020–0171 describes procedures for inspecting for play (a gap) between the MGB fan rotor blade and the upper section of the guide vane bearing housing. If there is play that does not meet the minimum requirement, the EASA AD requires replacing the affected MGB fan rotor shaft bearings with MGB fan rotor shaft bearings (both rear and front) P/N 704A33651268 (MP/N 594918).

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

FAA's Determination and Requirements of This Proposed AD

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the EASA AD referenced above. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2010–16–51, this proposed AD would retain a certain requirement of AD 2010–16–51. This requirement is referenced in EASA AD 2020–0171, which, in turn, is referenced in paragraph (g) of this proposed AD.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0171 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0171 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0171 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0171 that is required for compliance with EASA AD 2020–0171 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0092 after the FAA final rule is published.

Differences Between This Proposed AD and the EASA AD

The EASA AD applies to all Model SA 330 J helicopters, whereas this proposed AD applies to certain Model SA330J helicopters instead. The EASA AD refers to flight hours, whereas this proposed AD uses hours time-in-service. The EASA AD requires inspecting for play, whereas this proposed AD requires inspecting for a gap instead. The EASA AD requires returning certain parts, whereas this proposed AD requires removing the parts from service instead. The EASA AD requires completing a response form, whereas this proposed AD does not.

Interim Action

The FAA considers this proposed 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 15 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this proposed AD.

Inspecting for a gap between the MGB fan rotor blade and the upper section of the guide vane bearing housing would take about 2 work-hours for an estimated cost of $170 per helicopter and $2,550 for the U.S. fleet, per inspection cycle.

Replacing a set of two bearings would take about 6 work-hours and parts would cost up to about $1,665 for an estimated cost of up to $2,175 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2010–16–51, Amendment 39–16410 (75 FR 53857, September 2, 2010); and

■ b. Adding the following new AD:

Airbus Helicopters (Type Certificate Previously Held by Eurocopter France): Docket No. FAA–2021–0092; Project Identifier MCAI–2020–01501–R.

(a) Comments Due Date

The FAA must receive comments by April 12, 2021.

(b) Affected Airworthiness Directives (ADs)

This AD removes AD 2010–16–51, Amendment 39–16410 (75 FR 53857, September 2, 2010).

(c) Applicability

This AD applies to Airbus Helicopters (type certificate previously held by Eurocopter France) Model SA330J helicopters, certificated in any category, with main gearbox (MGB) oil cooling fan (fan) rotor shaft bearings (both rear and front) part number (P/N) 704A33651114 (manufacturer P/N (MP/N) 205FFTX74K6–G33) or P/N 704A33651268 (MP/N 594918), installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 6322; Main Gearbox Oil Cooler.

(e) Reason

This AD was prompted by the development of an improved MGB fan rotor shaft bearing design. The FAA is issuing this AD to prevent rotor burst of the MGB fan, damage to the hydraulic lines and flight controls, and subsequent loss of control of the helicopter.

(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 No. 2020–0171, dated July 28, 2020 (EASA AD 2020–0171).

(h) Exceptions to EASA AD 2020–0171

(1) Where EASA AD 2020–0171 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0171 does not apply to this AD.

(3) Where EASA AD 2020–0171 refers to flight hours (FH), this AD requires using hours time-in-service.

(4) Where EASA AD 2020–0171 requires measuring for play, this AD requires measuring the gap between each MGB fan rotor blade and the upper section of the guide vane bearing housing.

(5) Where ''The ASB'' service information referenced in EASA AD 2020–0171 specifies to return certain parts to Airbus Helicopters, this AD requires removing those parts from service instead.

(6) While ''The ASB'' service information referenced in EASA AD 2020–0171 specifies completing the response form in Appendix 4, this AD does not contain that requirement.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0171 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Strategic Policy Rotorcraft Section, 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 Strategic Policy Rotorcraft Section, send it to: Manager, Strategic Policy Rotorcraft Section, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110. Information may be emailed to: *9-ASW-FTW-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.

(l) Related Information

(1) For EASA AD 2020–0171, 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.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. 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–2021–0092.

(2) For more information about this AD, contact Mahmood Shah, Aerospace Engineer, Certification Section, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5538; email *Mahmood.g.shah@faa.gov.*

Issued on February 5, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03665 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0020; Project Identifier MCAI–2020–01639–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2019–03–12, which applies to certain Airbus Helicopters Model EC225LP helicopters. AD 2019–03–12 requires repetitively inspecting, cleaning, and lubricating each life raft inflation cylinder percussion system bellcrank (bellcrank). Since the FAA issued AD 2019–03–12, the FAA determined that any affected bellcrank must be replaced with a serviceable bellcrank, which would terminate the repetitive actions. This proposed AD would continue to require the actions specified in AD 2019–03–12, and would require replacing any affected bellcrank with a serviceable bellcrank. 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 12, 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 Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N 321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

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–2021–0020; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Blaine Williams, Aviation Safety Engineer, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; telephone 562–627–5371; email *blaine.willaims@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–2021–0020; Project Identifier MCAI–2020–01639–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposal.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Blaine Williams Aviation Safety Engineer, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; telephone 562–627–5371; email *blaine.willaims@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA issued AD 2019–03–12, Amendment 39–19564 (84 FR 8250, March 7, 2019) (AD 2019–03–12), which applies to certain Airbus Helicopters Model EC225LP helicopters. AD 2019–03–12 requires repetitively inspecting, cleaning, and lubricating each bellcrank. The FAA issued AD 2019–03–12 to address jammed bellcranks in the life raft jettison inflation cylinder percussion system. This condition could result in failure of a life raft to release in an emergency and subsequent injury to occupants.

Actions Since AD 2019–03–12 Was Issued

Since the FAA issued AD 2019–03–12, the FAA determined that the affected bellcranks must be replaced with serviceable bellcranks, which would terminate the need for the repetitive actions.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0287, dated November 27, 2019 (EASA AD 2019–0287) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Helicopters Model EC225LP helicopters. EASA AD 2019–0287 supersedes EASA AD 2019–0102, dated May 9, 2019. EASA AD 2019–0102, dated May 9, 2019, superseded EASA AD 2016–0200, dated October 11, 2016, which corresponds to FAA AD 2019–03–12.

This proposed AD was prompted by reports of jammed bellcranks in the life raft inflation cylinder percussion system. The FAA is proposing this AD to address jammed bellcranks in the life raft jettison inflation cylinder percussion system. This condition could result in failure of a life raft to release in an emergency and subsequent injury to occupants. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

Airbus Helicopters has issued Alert Service Bulletin EC225–25A211, Revision 1, dated October 23, 2019. This service information describes procedures for replacing any affected life raft release bellcrank with a serviceable bellcrank. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

Airbus Helicopters has also issued Emergency Alert Service Bulletin No. 05A050, Revision 0, dated July 22, 2016; and Emergency Alert Service Bulletin No. 05A050, Revision 1, dated April 3, 2019. This service information describes procedures for cleaning and lubricating each bellcrank and pivot link of the life raft inflation cylinder percussion system and removing any corrosion.

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would retain all requirements of AD 2019–03–12. This proposed AD would also require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between this Proposed AD and the MCAI or Service Information.''

Differences Between This Proposed AD and the MCAI or Service Information

EASA AD 2019–0287 requires replacing each affected bellcrank with a serviceable part within 6 months after the effective date of that AD. This proposed AD would require replacing each affected bellcrank with a serviceable part within 6 months after the effective date of this AD, or before the next operation over water, whichever occurs first.

Costs of Compliance

The FAA estimates that this proposed AD affects 28 helicopters of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2019–03–12	16 work-hours × $85 per hour = $1,360	Minimal	$1,360	$38,080
New proposed actions	4 work-hours × $85 per hour = $340	$1,646	1,986	55,608

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2019–03–12, Amendment 39–19564 (84 FR 8250, March 7, 2019); and

■ b. Adding the following new AD:

Airbus Helicopters: Docket No. FAA–2021–0020; Project Identifier MCAI–2020–01639–R.

(a) Comments Due Date

The FAA must receive comments by April 12, 2021.

(b) Affected Airworthiness Directives (ADs)

This AD removes AD 2019–03–12, Amendment 39–19564 (84 FR 8250, March 27, 2019) (AD 2019–03–12).

(c) Applicability

This AD applies to Airbus Helicopters Model EC225LP helicopters, all manufacturer serial numbers, certificated in any category, equipped with emergency life rafts installed in the multi-purpose sponsons.

(d) Subject

Joint Aircraft System Component (JASC) Code 2564, Life Raft.

(e) Reason

This AD was prompted by reports of jammed bellcranks in the life raft inflation cylinder percussion system. The FAA is issuing this AD to address jammed bellcranks in the life raft jettison inflation cylinder percussion system. This condition could result in failure of a life raft to release in an emergency and subsequent injury to occupants.

(f) Compliance

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

(g) Definitions

For the purposes of this AD, the definitions specified in paragraphs (g)(1) through (4) of this AD apply.

(1) *Group 1:* Helicopters that have an affected part installed.

(2) *Group 2:* Helicopters that do not have an affected part installed. A helicopter that embodies Airbus Helicopters Modification 07 28457 in production is a Group 2 helicopter, provided the helicopter remains in that configuration.

(3) *Affected part:* Life raft release bell cranks part number (P/N) 332A41–4396–20 (left-hand (LH) side) and P/N 332A41–4396–21 (right-hand (RH) side).

(4) *Serviceable part:* Life raft release bell cranks P/N 332A41–4396–22 (LH) and P/N 332A41–4396–23 (RH).

(h) Retained Repetitive Actions, With Specified Helicopter Group and New Note

This paragraph restates the requirements of paragraph (e) of AD 2019–03–12, with a specified helicopter group and new Note 1. For Group 1: Before further flight, and thereafter at intervals not to exceed 6 months:

(1) Clean each bellcrank and pivot link and inspect each bellcrank hole for corrosion. If there is any corrosion in a bellcrank hole:

(i) Remove the corrosion without exceeding a maximum depth of 0.1 millimeter (0.004 inch).

(ii) Clean each pivot link using 400-grain abrasive paper.

(iii) Apply corrosion protectant (Alodine 1200 or equivalent) to each bellcrank hole.

(2) Lubricate each bellcrank hole with grease before assembling the bellcrank.

Note 1 to paragraph (h): Airbus Helicopters Emergency Alert Service Bulletin No. 05A050, Revision 0, dated July 22, 2016; and Airbus Helicopters Emergency Alert

Service Bulletin No. 05A050, Revision 1, dated April 3, 2019; describe procedures for cleaning and lubricating each bellcrank and pivot link of the life raft inflation cylinder percussion system and removing any corrosion.

(i) New Requirement of This AD: Bellcrank Replacement

For Group 1: Within 6 months after the effective date of this AD, or before the next operation over water, whichever occurs first, replace each affected bellcrank with a serviceable part, as defined in paragraph (g)(4) of this AD, in accordance with Paragraph 3.B.2. of the Accomplishment Instructions of Airbus Helicopters Alert Service Bulletin EC225–25A211, Revision 1, dated October 23, 2019; except where the service information specifies to remove and scrap certain parts, this AD requires removing those parts from service instead.

(j) Terminating Action for Repetitive Actions Required by Paragraph (h) of This AD

Accomplishment of the bellcrank replacement required by paragraph (i) of this AD is terminating action for the repetitive actions required by paragraph (h) of this AD for that helicopter only.

(k) Parts Installation Limitation

(1) *For Group 1:* After the replacement required by paragraph (i) of this AD is done, only a serviceable part, as defined in paragraph (g)(4) of this AD, is allowed to be installed on that helicopter.

(2) *For Group 2:* As of the effective date of this AD, only a serviceable part, as defined in paragraph (g)(4) of this AD, is allowed to be installed on any helicopter.

(l) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Strategic Policy Rotorcraft Section, 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 Strategic Policy Rotorcraft Section, send it to: Manager, Strategic Policy Rotorcraft Section, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110. Information may be emailed to: *9-ASW-FTW-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.

(n) Related Information

(1) For more information about this AD, contact Blaine Williams, Aviation Safety Engineer, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; telephone 562–627–5371; email *blaine.willaims@faa.gov.*

(2) For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

Issued on January 28, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03666 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0100; Project Identifier MCAI–2020–00309–E]

RIN 2120–AA64

Airworthiness Directives; Safran Helicopter Engines, S.A. (Type Certificate Previously Held by Turbomeca, S.A.) Turboshaft 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 Safran Helicopter Engines, S.A. Arriel 2C and Arriel 2S1 model turboshaft engines. This proposed AD was prompted by reports of error messages on the full authority digital engine control (FADEC) B digital engine control unit (DECU), caused by blistering of the varnish on the DECU circuit board. This proposed AD would require the replacement of certain FADEC B DECUs. 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 12, 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 Safran Helicopter Engines, S.A., Avenue du 1er Mai, 40220 Tarnos, France; phone: +33 (0) 5 59 74 40 00. 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–2021–0100; 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: Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7134; fax: (781) 238–7199; email: *wego.wang@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–2021–0100; 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 Wego Wang, 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 2020–0046, dated March 4, 2020 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Occurrences have been reported of FADEC B DECU error messages, which were found to be caused by blistering of the varnish on the DECU circuit board. Subsequent investigation determined that the use of a non-compliant primer is related to the blistering effect which, in wet conditions, can cause malfunction of the stepper motor.
>
> This condition, if not corrected, could lead to loss of automatic control on both engines concurrently, possibly resulting in reduced control of the helicopter.
>
> To address this potentially unsafe condition, SAFRAN issued the MSB, as defined in this [EASA] AD, to provide instructions for identification and replacement of affected parts.
>
> For the reason described above, this [EASA] AD requires replacement of affected parts with serviceable parts. This [EASA] AD also prohibits (re-)installation of affected parts.

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–2021–0100.

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 on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Safran Helicopter Engines Note Technique AA187866, Version A, dated October 18, 2019. This service information identifies the serial numbers (S/Ns) of certain FADEC B DECUs installed on Arriel 2C and Arriel 2S1 model turboshaft engines. 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 Safran Helicopter Engines Mandatory Service Bulletin (MSB) No. 292 73 2872, Version A, dated October 17, 2019. This MSB describes procedures for identifying the S/Ns of certain FADEC B DECUs and replacing certain FADEC B DECUs on Arriel 2C and Arriel 2S1 model turboshaft engines.

Proposed AD Requirements in This NPRM

This proposed AD would require the replacement of certain FADEC B DECUs installed on Safran Helicopter Engines Arriel 2C and Arriel 2S1 model turboshaft engines.

Differences Between This Proposed AD and the MCAI or Service Information

Safran Helicopter Engines MSB No. 292 73 2872 is applicable to Arriel 2C, 2 C–PM, and Arriel 2S1 model turboshaft engines. This proposed AD is only applicable to Arriel 2C and Arriel 2S1 model turboshaft engines. There is no Arriel 2 C–PM model turboshaft engine type certificated in the United States.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 148 engines installed on helicopters 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
Replace the FADEC B DECU	1 work-hour × $85 per hour = $85	$0	$85	$12,580

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:

Safran Helicopter Engines, S.A. (Type Certificate Previously Held by Turbomeca, S.A.): Docket No. FAA–2021–0100; Project Identifier MCAI–2020–00309–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 12, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Safran Helicopter Engines, S.A. (Type Certificate previously held by Turbomeca, S.A.) Arriel 2C and Arriel 2S1 model turboshaft engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7321, Fuel Control/Turbine Engines.

(e) Unsafe Condition

This AD was prompted by reports of error messages of the full authority engine control (FADEC) B digital engine control unit (DECU), caused by blistering of the varnish on the DECU circuit board. The FAA is issuing this AD to prevent failure of the FADEC B DECU. The unsafe condition, if not addressed, could result in loss of engine thrust control and reduced control of the helicopter.

(f) Compliance

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

(g) Required Actions

For affected engines having an installed FADEC B DECU with a serial number (S/N) identified in Safran Helicopter Engines Note Technique AA187866, Version A, dated October 18, 2019 (the Note Technique), within 1,400 engine operating hours after the effective date of this AD, replace the FADEC B DECU with a part eligible for installation.

(h) Installation Prohibition

After the effective date of this AD, do not install onto any engine a FADEC B DECU having an S/N listed in the Note Technique.

(i) Definition

For the purpose of this AD, a part eligible for installation is a FADEC B DECU that does not have an S/N listed in the Note Technique.

(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 ECO Branch, 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

(1) For more information about this AD, contact Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7134; fax: (781) 238–7199; email: *wego.wang@faa.gov.*

(2) Refer to European Union Aviation Safety Agency AD 2020–0046, dated March 4, 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–2021–0100.

(3) For service information identified in this AD, contact Safran Helicopter Engines, S.A., Avenue du 1er Mai, 40220 Tarnos, France; phone: +33 (0) 5 59 74 40 00. 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 February 18, 2021.

Ross Landes,

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

[FR Doc. 2021–03777 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0125; Project Identifier MCAI–2020–01366–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

DATES: The FAA must receive comments on this proposed AD by April 12, 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 material that will be 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–2021–0125.

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–2021–0125; 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: 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:

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–2021–0125; Project Identifier MCAI–2020–01366–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 the 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 proposed AD.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to 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.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0210, dated October 5, 2020 (EASA AD 2020–0210) (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. EASA AD 2020–0210 refers to Airbus A350 Airworthiness Limitations Section (ALS) Part 2, Revision 06, dated May 29, 2020. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after May 29, 2020, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address reduced structural integrity of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0210 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, which are specified in EASA AD 2020–0210 described previously, as incorporated by reference. Any differences with EASA AD 2020–0210 are identified as exceptions in the regulatory text of this AD.

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

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0210 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0210 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is

not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD.

Service information specified in EASA AD 2020–0210 that is required for compliance with EASA AD 2020–0210 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0125 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections), or 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 the AMOCs paragraph under ''Other FAA Provisions.'' This new format includes a ''Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this proposed AD affects 15 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. 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 has 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:

Airbus SAS: Docket No. FAA–2021–0125; Project Identifier MCAI–2020–01366–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by April 12, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before May 29, 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) 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 2020–0210, dated October 5, 2020 (EASA AD 2020–0210).

(h) Exceptions to EASA AD 2020–0210

(1) Where EASA AD 2020–0210 refers to its effective date, this AD requires using the effective date of this AD.

(2) The requirements specified in paragraphs (1) and (2) of EASA AD 2020–0210 do not apply to this AD.

(3) Paragraph (3) of EASA AD 2020–0210 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, within 90 days after the effective date of this AD.

(4) The initial compliance time for doing the tasks specified in paragraph (3) of EASA 2020–0210 is at the applicable ''thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2020–0210, or within 90 days after the effective date of this AD, whichever occurs later.

(5) The provisions specified in paragraphs (4) and (5) of EASA AD 2020–0210 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2020–0210 does not apply to this AD.

(i) Provisions for Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2020–0210.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-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 (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

(1) For information about EASA AD 2020–0210, 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.* 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–2021–0125.

(2) 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.*

Issued on February 19, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03866 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0101; Project Identifier MCAI–2020–01084–T]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., 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 Bombardier, Inc., Model BD–100–1A10 airplanes. This proposed AD was prompted by a report that the inboard multi-function spoiler (MFS) surfaces failed to deploy, which was caused by missing notches on the piston seal of the MFS power control units (PCUs). This proposed AD would require an inspection to determine if affected MFS PCUs are installed, and replacement of affected MFS PCUs. 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 12, 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 Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free phone: 1–866–538–1247 or direct-dial phone: 1–514–855–2999; email: *ac.yul@aero.bombardier.com;* internet: *http://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.

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–2021–0101; 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: Siddeeq Bacchus, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0101; Project Identifier MCAI–2020–01084–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 the 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 proposed AD.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Siddeeq Bacchus, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2020–26, dated August 4, 2020 (referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model BD–100–1A10 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–2021–0101.

This proposed AD was prompted by a report that the inboard MFS surfaces failed to deploy, which was caused by missing notches on the piston seal of the MFS PCUs. The FAA is proposing this AD to address MFS PCUs with improperly configured piston seals, which could cause degraded proportional lift dumping (PLD) function and could hinder the airplane from carrying out an emergency descent, resulting in structural damage and injury to occupants. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information. This service information describes procedures for an inspection to determine if affected MFS PCUs are installed, and replacement of affected MFS PCUs. These documents are distinct since they apply to different airplane configurations.

- Bombardier Service Bulletin 100–27–17, Revision 03, dated June 19, 2020.
- Bombardier Service Bulletin 350–27–010, dated June 19, 2020.

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

FAA's Determination

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

Proposed Requirements of This NPRM

This proposed AD would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

The FAA estimates that this proposed AD affects 630 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 19 work-hours × $85 per hour = Up to $1,615.	Up to $19,600 (up to 4 MFS PCUs per airplane).	Up to $21,215 (up to 4 MFS PCUs per airplane).	Up to $13,365,450 (up to 4 MFS PCUs per airplane).

According to the manufacturer, some or all of the costs of this proposed 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

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:

Bombardier, Inc.: Docket No. FAA–2021–0101; Project Identifier MCAI–2020–01084–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by April 12, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–100–1A10 airplanes, certificated in any category, serial numbers 20003 through 20457 inclusive, and 20501 through 22999 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by a report that the inboard multi-function spoiler (MFS) surfaces failed to deploy, which was caused by missing notches on the piston seal of the MFS power control units (PCUs). The FAA is issuing this AD to address MFS PCUs with improperly configured piston seals, which could cause degraded proportional lift dumping (PLD) function. This condition could hinder the airplane from carrying out an emergency descent, resulting in structural damage and injury to occupants.

(f) Compliance

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

(g) Definition of Affected Part

For the purpose of this AD, an affected MFS PCU is an MFS PCU that has a serial number of 0001 through 1410 inclusive, except for those MFS PCUs having the serial numbers listed in figure 1 to paragraph (g) of this AD and except for those with the suffix ''A'' at the end of the serial number (*i.e.,* serial number 1025A).

BILLING CODE 4910–13–P

Figure 1 to paragraph (g) of this AD: *Serial numbers that are not affected*

66	605	1287	1395
72	671	1334	1396
175	720	1337	1397
200	727	1368	1400
331	728	1369	1401
441	773	1370	1403
448	778	1373	1404
449	812	1376	1405
456	831	1380	1406
470	887	1382	1407
494	991	1385	1408
495	1049	1386	1409
498	1208	1387	-
499	1236	1388	-
561	1284	1394	-

BILLING CODE 4910–13–C

(h) Required Actions

(1) Within 12 months after the effective date of this AD: Do an inspection to determine if affected MFS PCUs are installed on the airplane in accordance with Paragraph 2.B. of Bombardier Service Bulletin 100–27–17, Revision 03, dated June 19, 2020; or Bombardier Service Bulletin 350–27–010, dated June 19, 2020; as applicable. A review of airplane maintenance records is acceptable in lieu of this inspection if the serial number of the MFS PCU can be conclusively determined from that review.

(2) Within 12 months after the effective date of this AD: Replace any affected MFS PCUs with MFS PCUs that are not affected, in accordance with Paragraphs 2.C., 2.D., 2.E., and 2.F., as applicable, of Bombardier Service Bulletin 100–27–17, Revision 03, dated June 19, 2020; or Bombardier Service Bulletin 350–27–010, dated June 19, 2020; as applicable.

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install an affected MFS PCU, on any airplane.

(j) 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; phone: 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 Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–26, dated August 4, 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–2021–0101.

(2) For more information about this AD, contact Siddeeq Bacchus, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7362; fax: 516–794–5531; email: *9-avs-nyaco-cos@faa.gov.*

(3) For service information identified in this AD, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free phone: 1–866–538–1247 or direct-dial phone: 1–514–855–2999; email: *ac.yul@aero.bombardier.com;* internet: *http://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.

Issued on February 18, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–03745 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0102; Project Identifier AD–2020–01270–E]

RIN 2120–AA64

Airworthiness Directives; General Electric Company 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 certain General Electric Company (GE) GEnx–2B67, GEnx–2B67/P, and GEnx–2B67B model turbofan engines. This proposed AD was prompted by a report of a crack in the lower fuel manifold causing fuel leakage. This proposed AD would require an ultrasonic inspection (USI) or a fluorescent penetrant inspection (FPI) of the lower fuel manifold. Depending on the results of the USI or FPI, this proposed AD would require replacement of the lower fuel manifold with a part eligible for installation. 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 12, 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 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.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0102; 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: 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:

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–2021–0102; Project Identifier AD–2020–01270–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 Mehdi Lamnyi, 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 FAA received a report that a GEnx–2B model turbofan engine installed on a Boeing Model 747–8 airplane was removed from service due to confirmed fuel leakage from a lower fuel manifold in May 2019. The operator observed fuel leakage during a routine borescope inspection of the high-pressure turbine, and later confirmed by ultrasonic inspection a crack at brazed block #4 in the pilot secondary fuel circuit tube on the lower fuel manifold. The FAA received two similar reports, in March 2020 and May 2020, of a fuel leak from the lower fuel manifold at brazed block #4. The manufacturer has identified the root cause of this cracking as low-cycle fatigue due to the abrupt transition created by the brazed support block pad and its inability to slide due to thermal loads as intended. This condition, if not addressed, could result in failure of the fuel manifold, engine fire, and damage to the airplane.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE GEnx–2B Service Bulletin (SB) 73–0089 R01, dated January 11, 2021. The service information specifies procedures for performing an initial on-wing visual inspection, a USI, or an FPI of the top main fuel manifold and the lower fuel manifold. The service information also specifies procedures for performing repetitive in-shop visual inspection and FPI for GEnx–2B model turbofan engines. The service information also provides instructions for replacing the top main fuel manifold and lower fuel manifold if a crack is found that exceeds the manufacturer's criteria or if a leak is detected during inspection. 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.

Proposed AD Requirements in This NPRM

This proposed AD would require performing either a USI, an on-wing spot FPI, or an in-shop FPI of the lower fuel manifold, part number (P/N) 2619M58G01, at the locations adjacent to the five support block pads to detect cracks. Depending on the results of the inspection, this AD may require removing the lower fuel manifold from service and replacing it with a part eligible for installation.

Differences Between This Proposed AD and the Service Information

GE GEnx–2B SB 73–0089 R01, dated January 11, 2021, describes procedures for performing an initial on-wing visual inspection of the top main fuel manifold and the lower fuel manifold, followed by a USI or an FPI. This service information describes procedures for a repetitive in-shop visual inspection and FPI of the top main fuel manifold and the lower fuel manifold. This service information also provides instructions for replacing the top main fuel manifold or the lower fuel manifold if a crack is discovered that exceeds the criteria established by the manufacturer or if a leak is detected during inspection.

This proposed AD would not require inspection or replacement of the top main fuel manifold or a visual inspection of the lower fuel manifold. This proposed AD would also not require the repetitive in-shop visual inspection and FPI of the top main fuel manifold and the lower fuel manifold. This proposed AD would require a USI, an on-wing spot FPI, or an in-shop FPI of the lower fuel manifold and, depending on the results of the inspection, replacement of the lower fuel manifold with a part eligible for installation. Reports received by the FAA indicate that fuel leakage has occurred on the lower fuel manifold. Based on these reports, the FAA is not requiring inspection of the top main fuel manifold.

Interim Action

The FAA considers this proposed AD would be an interim action. The design approval holder is currently developing a modification to address the unsafe condition identified in this AD. Once this modification is developed, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 156 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
FPI or USI of the lower fuel manifold	16 work-hours × $85 per hour = $1,360	$0	$1,360	$212,160

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. The FAA has no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace the lower fuel manifold	2 work-hours × $85 per hour = $170	$47,730	$47,900

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 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:

General Electric Company: Docket No. FAA–2021–0102; Project Identifier AD–2020–01270–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 12, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) GEnx–2B67, GEnx–2B67/P, and GEnx–2B67B model turbofan engines with lower fuel manifold, part number (P/N) 2619M58G01, installed.

(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 lower fuel manifold. The FAA is issuing this AD to detect cracking of the lower fuel manifold. The unsafe condition, if not addressed, could result in failure of the fuel manifold, 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 the compliance time specified in Table 1 to paragraph (g)(1) of this AD, perform either an ultrasonic inspection (USI), an on-wing spot fluorescent penetrant inspection (FPI), or an in-shop FPI of the lower fuel manifold, P/N 2619M58G01, in accordance with paragraph (g)(1)(i), (ii), or (iii) of this AD, as applicable.

TABLE 1 TO PARAGRAPH (g)(1)—COMPLIANCE TIME

Lower fuel manifold cycles since new (CSN)	Compliance time
Less than 1,700 CSN	After the lower fuel manifold has accumulated 1,700 CSN, but before it exceeds 2,200 CSN.
1,700 CSN or more	Within 500 engine flight cycles (FCs) after the effective date of this AD.

(i) Perform a USI of the lower fuel manifold at the locations adjacent to the five support block pads to detect cracks in accordance with paragraph 4. Appendix—A of GEnx–2B Service Bulletin (SB) 73–0089 R01, dated January 11, 2021.

(ii) Perform an on-wing spot FPI of the lower fuel manifold at the five brazed block joints to detect cracks. Guidance on performing the spot FPI can be found in paragraph 3.B.(6)(a) of GEnx–2B SB 73–0089 R01, dated January 11, 2021.

(iii) Perform an in-shop FPI of the lower fuel manifold at the five brazed block joints to detect cracks. Guidance on performing the FPI can be found in paragraph 3.C.(4) of GEnx–2B SB 73–0089 R01, dated January 11, 2021.

(2) If a crack or rejectable indication is found during the USI, on-wing spot FPI, or in-shop FPI required by paragraphs (g)(1)(i), (ii), and (iii) of this AD, before further flight, remove the lower fuel manifold from service and replace it with a part eligible for installation.

(h) Definition

For the purpose of this AD, a part eligible for installation is:

(1) Any serviceable lower fuel manifold, P/N 2619M58G01, with less than 1,700 CSN, or

(2) Any lower fuel manifold, P/N 2619M58G01, with 1,700 CSN or more that has been inspected in accordance with paragraph (g)(1)(i), (ii), or (iii) of this AD and a crack or rejectable indication was not found, or

(3) Any approved lower fuel manifold with a part number other than P/N 2619M58G01.

(i) No Reporting Requirements

The reporting requirements specified in paragraph 4. Appendix—A of GE GEnx–2B SB 73–0089 R01, dated January 11, 2021, are 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

(1) 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.*

(2) For 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.* 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 February 18, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–03708 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–123652–18]

RIN 1545–BP01

Treatment of Special Enforcement Matters; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed rule; notice of hearing.

SUMMARY: This document provides a notice of public hearing on proposed regulations to except certain partnership-related items from the centralized partnership audit regime that was created by the Bipartisan Budget Act of 2015 and sets forth alternative rules that will apply.

DATES: The public hearing is being held on Thursday March 25, 2021 at 10:00 a.m. The IRS must receive speakers' outlines of the topics to be discussed at the public hearing by Friday, March 12, 2021. If no outlines are received by March 12, 2021, the public hearing will be cancelled.

ADDRESSES: The public hearing is being held by teleconference. Individuals who want to testify (by telephone) at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number [REG–123652–18] and the word TESTIFY. For example, the subject line may say: Request to TESTIFY at Hearing for REG–123652–18. The email must include the name(s) of the speaker(s) and title(s). Send outline submissions electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–123652–18). The outlines must be received by March 12, 2021 at *www.regulations.gov,* no outlines are being accepted by email.

FOR FURTHER INFORMATION CONTACT: Concerning these proposed regulations, Concerning the proposed regulations, Jennifer M. Black of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317–6834, the hearing, and the access code to attend the hearing by teleconferencing, Regina Johnson at (202) 317–5177 (not toll-free numbers) or *publichearings@irs.gov.* If emailing please put Attend, Testify, or Agenda Request and [REG–123652–18] in the email subject line.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking REG–123652–18 that was published in the **Federal Register** on Tuesday, November 24, 2020, 85 FR 74940.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments telephonically at the hearing that previously submitted written comments by January 25, 2021, must submit an outline on the topics to be addressed and the amount of time to be devoted to each topic by March 12, 2021.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available (two days before the hearing) by emailing your request to *publichearings@irs.gov.* Please put ''REG–123652–18'' Agenda Request'' in the subject line of the email.

Individuals who want to attend (by telephone) the public hearing must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number [REG–123652–18] and the word ATTEND. For example, the subject line may say: Request to ATTEND Hearing for REG–123652–18. The email requesting to attend the public hearing must be received by 5:00 p.m. two (2) business days before the date that the hearing is scheduled.

The telephonic hearing will be made accessible to people with disabilities. To request special assistance during the telephonic hearing please contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–5177 (not a toll-free number) at least three (3) days prior to the date that the telephonic hearing is scheduled.

Any questions regarding speaking at or attending a public hearing may also be emailed to *publichearings@irs.gov.*

Crystal Pemberton,

Senior Federal Register, Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2021–03769 Filed 2–25–21; 8:45 am]

BILLING CODE 4830–01–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 351

[Docket No. 21–CRB–0007–RM]

Copyright Royalty Board Regulations Regarding the Conduct of Proceedings

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed rule.

SUMMARY: The Copyright Royalty Judges propose to amend a regulation to clarify that their hearings may be conducted in person at the Library of Congress or an alternative location, or virtually, at the Judges' discretion. The Judges solicit comments on the proposed amendment.

DATES: Comments are due no later than March 29, 2021.

ADDRESSES: You may send comments, identified by docket number 21–CRB–

0007–RM, online through eCRB at *https://app.crb.gov.*

Instructions: All submissions received must include the Copyright Royalty Board name and the docket number for this proposed rule. All comments received will be posted without change to eCRB at *https://app.crb.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to eCRB at *https://app.crb.gov* and perform a case search for docket 21–CRB–0007–RM.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, CRB Program Specialist, at 202–707–7658 or *crb@loc.gov.*

SUPPLEMENTARY INFORMATION: Copyright Royalty Board (CRB) Rule 351.9 addresses the procedures the Copyright Royalty Judges (Judges) follow in conducting hearings. 37 CFR 351.9. Although the rule does not currently specify the location for such hearings, historically they have been conducted in person at facilities within the Library of Congress in Washington, DC. During the COVID–19 pandemic, however, the Library of Congress's facilities have been closed to the public, which has required the Judges to conduct proceedings virtually. It is uncertain when the Library's facilities will again be available for public hearings. Therefore, the Judges believe that it is appropriate to codify the fact that future hearings may be conducted physically, either at the Library of Congress or an alternative location, or virtually, at the Judges' discretion, which this proposed rule would accomplish. The Judges seek comments on all aspects of the proposed rule.

For the reasons stated in the preamble, the Judges propose to amend 37 CFR part 351 as set forth below:

List of Subjects in 37 CFR Part 351

Administrative practice and procedure, Copyright.

For the reasons set forth in the preamble, the Copyright Royalty Judges propose to amend part 351 of title 37 of the Code of Federal Regulations as follows:

PART 351—PROCEEDINGS

■ 1. The authority citation for part 351 continues to read:

Authority: 17 U.S.C. 803.

■ 2. Revise § 351.9(a) to read as follows:

§ 351.9 Conduct of hearings.

(a)(1) *By panels.* Subject to paragraph (b) of this section, hearings will be conducted by Copyright Royalty Judges sitting *en banc.*

(2) *Location.* Hearings will be conducted in person at the Library of Congress or an alternative location, or virtually, at the Judges' discretion.

* * * * *

Dated: February 9, 2021.

Jesse M. Feder,

Chief Copyright Royalty Judge.

[FR Doc. 2021–02946 Filed 2–25–21; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA–R08–OAR–2020–0742; FRL–10020–09–Region 8]

Approval of the Tribal Implementation Plan for the Northern Cheyenne Tribe

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a Tribal Implementation Plan (TIP) submitted by the Northern Cheyenne Tribe (Tribe) on September 25, 2017, to regulate air pollution within the exterior boundaries of the Tribe's Northern Cheyenne Indian Reservation and four tribal trust parcels (collectively, the Reservation). The EPA is proposing to approve the TIP based on maintenance of the National Ambient Air Quality Standards (NAAQS) through a permitted open burning program. The EPA is taking this action pursuant to sections 110(o), 110(k)(3), and 301(d) of the Clean Air Act (CAA or the Act).

DATES: *Comments:* Written comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2020–0742, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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, 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.*

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.,* 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. Publicly available docket materials are available electronically in *www.regulations.gov.* To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Kyle Olson, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–TRM, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6002, *olson.kyle@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document ''we,'' ''us,'' or ''our'' means the EPA.

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I. The EPA Action Being Proposed Today

The EPA is proposing approval of the Tribe's TIP submission which contains programs to address: Ambient air quality standards for sulfur dioxide (SO_2), particulate matter (PM_{10} and $PM_{2.5}$), nitrogen dioxide (NO_2), ozone (O_3), carbon monoxide (CO), and lead; permitting; open burning; and enforcement.

II. Introduction

The Tribe is a federally-recognized Indian tribe by the U.S. Secretary of the Interior. *See* 85 FR 5462, 5464 (January 30, 2020). Beginning in 2017, the Tribe, with assistance from the EPA, began developing a draft TIP and its various elements with the goal of eventually submitting the TIP to the EPA for approval. On September 25, 2017, the Tribe requested that the EPA find the Tribe eligible for treatment in a similar manner as a state (TAS), pursuant to section 301(d) of the CAA and Title 40 part 49 of the Code of Federal Regulations (CFR), for the purpose of developing and carrying out a TIP. The Tribe also formally submitted the TIP to the EPA on September 25, 2017. On June 22, 2020, the EPA determined that the Tribe is eligible for TAS for that purpose. Having found that the Tribe is eligible for TAS, the EPA is now proposing to approve the Tribe's TIP.

The Tribe's TIP has been developed to protect the Reservation populace from air pollution by controlling open burning sources. The TIP establishes primary and secondary ambient air quality standards for CO, lead, SO_2, PM_{10}, $PM_{2.5}$, NO_2, and O_3. The TIP also establishes an open burning permitting program and enforcement authorities.

III. Background

The CAA was originally enacted in 1963 and has been significantly amended over the years (most notably in 1970, 1977, and 1990). Among other things, the Act: Requires the EPA to establish NAAQS for certain pollutants; requires the EPA to develop programs to address specific air quality problems; establishes the EPA's enforcement authority; and provides for air quality research. As part of the 1990 amendments, Congress added section 301(d) to the Act authorizing the EPA to treat eligible Indian tribes ''in the same manner as states'' and directing the EPA to promulgate regulations specifying those provisions of the Act for which TAS is appropriate. In February of 1998, the EPA implemented this requirement by promulgating the Tribal Authority Rule (TAR) (63 FR 7254 (February 12, 1998), codified at 40 CFR part 49). The EPA included relevant provisions relating to implementation plans among the provisions for which TAS is appropriate (exceptions are identified in 40 CFR 49.4).

Under the provisions of the Act and the EPA's regulations, Indian tribes must demonstrate that they meet the criteria in section 301(d) of the Act and the TAR in order to be eligible for TAS. The eligibility criteria are: (1) The Indian tribe is federally recognized; (2) the Indian tribe has a governing body carrying out substantial governmental duties and powers; (3) the functions the Indian tribe is applying to carry out pertain to the management and protection of air resources within the exterior boundaries of the reservation (or other areas within the Indian tribe's jurisdiction); and (4) the Indian tribe is reasonably expected to be capable of performing the functions the Indian tribe is applying to carry out in a manner consistent with the terms and purposes of the Act and all applicable regulations.

An implementation plan is a set of programs and regulations developed by the appropriate regulatory agency in order to assure healthy air quality through the attainment and maintenance of the NAAQS. These plans can be developed by states, eligible Indian tribes, or the EPA, depending on the entity with jurisdiction and the EPA's approval in a particular area.

For states, these plans are referred to as State Implementation Plans or SIPs. For eligible Indian tribes, these plans are called TIPs. Occasionally, the EPA will develop an implementation plan for a specific area or source. This is referred to as a Federal Implementation Plan or a FIP. Once final approval is published in the **Federal Register**, the provisions of an implementation plan become federally enforceable. An applicable implementation plan may be comprised of both TIPs and FIPs or SIPs and FIPs.

The contents of a typical implementation plan may fall into three categories: (1) Enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance; (2) ''non-regulatory'' components (*e.g.,* attainment plans, rate of progress plans, emission inventories, statutes demonstrating legal authority, monitoring programs); and (3) additional requirements promulgated by the EPA (in the absence of a commensurate state or tribal provision) to satisfy a mandatory CAA section 110 or part D requirement. The implementation plan is a living document which can be revised by the state or eligible Indian tribe as necessary to address air pollution problems. Accordingly, the EPA from time to time must take action on implementation plan revisions which may contain new and/or revised regulations that will become part of the implementation plan.

Upon submittal to the EPA, the EPA reviews implementation plans for conformance with federal policies and regulations. If the implementation plan conforms, the state's or eligible Indian tribe's regulations become federally enforceable upon EPA approval. The codification is usually accomplished by notice-and-comment rulemaking, with publications of proposed and final rules in the **Federal Register**.

IV. Tribal Implementation Plan Requirements

What is required for the approval of a Tribal Implementation Plan?

For a tribe to receive EPA approval of a TIP, the tribe must, among other things, obtain a determination from the EPA that the tribe is eligible for TAS for purposes of the TIP and submit to the EPA a TIP that satisfies requirements of the Act and relevant regulations that apply to the plan elements and functions the tribe seeks to carry out.

The following technical elements in a TIP may include, but are not limited to: [1]

- A list of regulated pollutants affected by the plan;
- Documentation that the plan contains emission limitations, work practice standards, and recordkeeping/reporting requirements; and
- Regulations.

The TAR allows tribes to develop, adopt, and submit an implementation plan for approval as a TIP in a modular fashion, so it may not be necessary to meet all of the requirements identified above.

The EPA has the authority, under the Act, to enforce the regulations in an approved TIP. The EPA recognizes that, in certain circumstances, eligible Indian tribes have limited criminal enforcement authority. The TAR specifically provides that such limitations on an Indian tribe's criminal enforcement authority do not prevent a TIP from being approved. Where implementation of the TIP requires criminal enforcement authority, and to

[1] United States Environmental Protection Agency, Office of Air Quality and Planning Standards. *Developing a Tribal Implementation Plan.* chapters 2 and 4. *https://www.epa.gov/sites/production/files/2018-09/documents/developing_a_tribal_implementation_plan_sept._2018_1.pdf.* 2018.

the extent a tribe is precluded from asserting such authority, the federal government will exercise primary criminal enforcement responsibility. A memorandum of agreement between an Indian tribe and the EPA is an appropriate way to address circumstances in which the tribe is incapable of exercising applicable enforcement requirements as described in 40 CFR 49.7(a)(6) and 40 CFR 49.8. The memorandum of agreement shall include a process by which the tribe will provide potential investigative leads to the EPA and/or other appropriate federal agencies in an appropriate and timely manner.

V. Northern Cheyenne Tribe's TIP Submittal

A. Northern Cheyenne Tribe TAS Eligibility

On September 25, 2017, the Tribe requested an EPA determination under the provisions of 40 CFR 49.7 that the Tribe is eligible for TAS for the purpose of developing a TIP for air quality. On June 22, 2020, the EPA determined that the Tribe meets the eligibility requirements of section 301(d) of the Act and 40 CFR 49.6 for the purposes of developing and carrying out an implementation plan under the Act. EPA's decision on the TAS is final and is provided as background only in this action. It is not subject to further public comment as part of this TIP approval.

B. What authority does the Northern Cheyenne Tribe's Department of Environmental Protection and Natural Resources (DEPNR) have?

The Northern Cheyenne Tribal Council gave the DEPNR authority to administer the Northern Cheyenne Clean Air Act (NCCAA) programs on behalf of the Tribe in Tribal Ordinance No. DOI–008 (2017) dated December 7, 2016. The Northern Cheyenne Tribal Council had the authority to take this action pursuant to Article IV, Section 1(a), (i), and (r) of the Tribe's Amended Constitution and Bylaws.[2] Tribal Ordinance NO. DOI–008 (2017) authorized the DEPNR to administer the NCCAA programs, as allowed under the Act and the EPA's regulations.

C. What role does the EPA have in criminal enforcement?

The Tribe did not submit, and EPA is not proposing to approve, any criminal enforcement authority under the TIP. Accordingly, the EPA is responsible for pursuing any criminal enforcement action for violations of the Act or implementing regulations that occur in Indian country. Consistent with 49 CFR 49.7(a)(6) and 49 CFR 49.8, on May 14, 2020, the Tribe entered into a Memorandum of Agreement (MOA) with EPA Region 8 concerning criminal enforcement of air pollution rules and regulations as part of the TAS application process. Under the terms of this MOA, the Tribe would refer alleged criminal violations of the Act that exceed the Tribe's criminal authority to EPA Region 8 if the EPA approves the Tribe for CAA criminal enforcement authorities in the future. Neither the proposed action nor the MOA prevent the Tribe from pursuing criminal enforcement actions within the Tribe's criminal authority under tribal law.

D. When did the Northern Cheyenne Tribe adopt the TIP under Tribal Law?

On December 7, 2016, the NCCAA was approved by the Tribal Council as Tribal Ordinance No. DOI–008 (2017). On September 12, 2017, the Tribal Council passed Resolution No. DOI–201 (2017) authorizing submission of the NCCAA to the EPA as a TIP under the Act. The Tribe's staff completed the public notification process for a TIP required by 40 CFR 51.102 and received no public comments and no requests for a public hearing regarding the TIP.[3] In addition, the Tribe has posted the NCCAA on the Tribe's website.

E. What is included in the Northern Cheyenne Tribe's TIP submittal?

The Tribe's TIP submittal includes ambient air quality standards for CO, lead, NO_2, O_3, PM_{10}, $PM_{2.5}$, and SO_2, and provisions for an open burning permit program, enforcement and appeals, and emergency authority.

1. Ambient Air Quality Standards

The EPA has established primary and secondary NAAQS for six air pollutants: CO, lead, NO_2, O_3, PM_{10}/$PM_{2.5}$, and SO_2. *See https://www.epa.gov/criteria-air-pollutants/naaqs-table.* Most pollutants regulated by the NAAQS have two limits. The ''primary'' standard is designed to protect the public—including children, people with asthma, and the elderly—from health risks. The ''secondary'' standard is to prevent unacceptable effects on the public welfare, *e.g.,* damage to crops and vegetation, buildings and property, and ecosystems.

The Tribe established primary and secondary air quality standards, which will remain consistent with any future EPA updates to the NAAQS, for the following air pollutants:

Pollutant	Primary/secondary	Averaging time	Level	Form
Carbon Monoxide (CO)	primary	8 hours	9 ppm	Not to be exceeded more than once per year.
		1-hour	35 ppm	
Lead (Pb)	primary and secondary	Rolling 3 month period.	0.15 μg/m³	Not to be exceeded.
Nitrogen Dioxide (NO_2)	primary	1-hour	100 ppb	98th percentile of 1-hour daily maximum concentrations, averaged over 3 years.
	primary and secondary	1 year	53 ppb	Annual Mean.
Ozone (O_3)	primary and secondary	8 hours	0.070 ppm	Annual fourth-highest daily maximum 8-hour concentration, avereaged over 3 years.
Particle Pollution (PM):				
$PM_{2.5}$	primary	1 year	12.0 μg/m³	Annual mean, averaged over 3 years.
	secondary	1 year	15.0 μg/m³	Annual mean, averaged over 3 years.
	primary and secondary	24 hours	35 μg/m³	98th percentile, averaged over 3 years.
PM_{10}	primary and secondary	24 hours	150 μg/m³	Not to be exceeded more than once per year on average over 3 years.
Sulfur Dioxide (SO_2)	primary	1-hour	75 ppb	99th percentile of 1-hour daily maximum concentrations, averaged over 3 years.
	secondary	3 hours	0.5 ppm	Not to be exceeded more than once per year.

[2] Northern Cheyenne TAS/TIP Application, section J, page 1.

[3] Northern Cheyenne TAS/TIP Application, Resolution No. DOI–201(2017), section Z, page 2.

Accordingly, the EPA proposes to approve the Tribe's standards for the pollutants listed in the table above, which are the same as the NAAQS, for incorporation into the TIP.

2. Open Burning Program

The proposed TIP establishes a general prohibition on open burning on the Reservation (see NCCAA Section 5.1), unless otherwise exempted under NCCAA Section 5.2 (*i.e.,* open burning for cultural, traditional, or spiritual purposes or open burning activity that is less than four feet in diameter and less than three feet in height) or is permitted under NCCAA Section 5.7. The Tribe reserves the right to issue burn bans, per NCCAA Section 5.6, and prohibits the burning of listed materials in NCCAA Section 5.4 (unless authorized for training fires).

Permitting procedures for open burning are specified in NCCAA Section 5.7. Permits are required for open burning activity on the Reservation that is four or more feet in diameter or three or more feet in height (unless exempted under NCCAA Section 5.2) prior to commencing open burning activities. Permits may be issued only if the Air Quality Administrator determines, in consultation with the appropriate Bureau of Indian Affairs, Northern Cheyenne Agency personnel, that the proposed open burning activity will not cause an adverse impact on Reservation air quality or otherwise endanger public health or welfare on the Reservation. Permits are also required to contain certain minimum permit conditions, including setback requirements, equipment and supply requirements, wind speed limitations, and extinguishment conditions, etc. Violations of any applicable permit terms or conditions are considered violations of the NCCAA. For all permitted open burning activities, the permittee must notify the Air Quality Administrator at least two working days prior to commencing an open burning activity and must notify Northern Cheyenne Fire Protection not less than one hour prior to commencing the open burning activity (during regular business hours). Section 5.5 of the NCCAA specifies, however, that no person shall commence or continue an open burning activity within the Reservation that is determined by the Director of the Tribe's DEPNR, in consultation with the Air Quality Administrator, to cause or contribute to an exceedance of any Northern Cheyenne Ambient Air Quality Standard. The EPA is proposing to approve the conditions and procedures the Tribe has established for its open burning permitting program.

3. Enforcement

Section 3 of the proposed TIP covers civil enforcement and appeals. Under the TIP, the Tribe's Air Quality Administrator can issue compliance orders for TIP violations. A compliance order can include civil penalties up to $5,000 per day for each violation and an assessment of costs incurred by DEPNR. The Air Quality Administrator can file an action in Northern Cheyenne Tribal Court pursuant to the Northern Cheyenne Rules of Civil Procedure to enforce a penalty order or to seek preliminary injunctive relief against any person who is suspected to have violated the TIP or a compliance order.

Alleged violators can challenge compliance orders by petitioning the DEPNR Director for administrative review within 30 days of receiving the order. The Director shall promptly review petitions for administrative review and issue a written decision that upholds, vacates, or modifies the order. Alleged violators can challenge a decision by the Director by filing an action in Northern Cheyenne Tribal Court pursuant to the Northern Cheyenne Rules of Civil Procedure. The Tribal Court shall uphold any decision by the Director unless it is arbitrary and capricious or contrary to law.

The EPA finds the Tribe has adequately established an enforcement mechanism to carry out its regulations, and the EPA proposes to approve it.

VI. What EPA action is being taken today?

The EPA is proposing approval of the Tribe's proposed TIP, which contains programs to address ambient air quality standards for the NAAQS pollutants, an open burning program, and enforcement provisions. The public docket contains the Tribe's proposed TIP, TAS eligibility determination, and enforcement MOA with the EPA.

VII. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the TIP amendments described in Section VI of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* (refer to docket EPA–R08–OAR–2020–0742).

VIII. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

Executive Order 13175, entitled ''Consultation and Coordination with

Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The EPA has concluded that this proposed rule will have tribal implications in that it will have substantial direct effects on the Northern Cheyenne Tribe. However, it will neither impose substantial direct compliance costs on tribal governments nor preempt tribal law. The EPA is proposing to approve the TIP at the request of the Tribe. Tribal law will not be preempted as the Tribe has already incorporated the TIP into Tribal law on December 7, 2016. The Tribe has applied for, and fully supports, the proposed approval of the TIP. If it is approved, the TIP will become federally enforceable.

List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Indians, Indians—law, Indians—tribal government, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: February 17, 2021.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

[FR Doc. 2021–03826 Filed 2–25–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2020–0541; FRL–10019–42–Region 8]

Approval and Promulgation of Implementation Plans; Utah; R307–204 Emission Standards: Smoke Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision package submitted by the State of Utah on November 5, 2019. The November 5, 2019 revision amends R307–204 to meet the requirements set forth in Utah's 2019 House Bill (H.B.) 155. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2020–0541, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* 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, 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.*

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.,* 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. Publicly available docket materials are available electronically in *www.regulations.gov.* To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Amrita Singh, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6103, *singh.amrita@epa.gov.*

SUPPLEMENTARY INFORMATION: Specifically, EPA is proposing to approve revisions to sections: R307–204–1. Purpose and Goals; R307–204–2. Applicability; R307–204–3. Definitions; R307–204–4. General Requirements; R307–204–5. Burn Schedule; R307–204–6. Small Prescribed Fires (de minimis); R307–204–7. Small Prescribed Fires (de minimis); R307–204–8. Large Prescribed Fires; R307–204–9. Large Prescribed Pile Fires; and R307–204–10. Requirements for Wildland Fire Use Events.

Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

The EPA's Interim Air Quality Policy on Wildland and Prescribed Fires [1] was designed to integrate two public policy goals, (1) to allow fire to function as nearly as possible, in its natural role in maintaining healthy wildland ecosystems, and (2) to protect public health and welfare by mitigating the impacts of air pollutant emissions on air quality and visibility. The document expands on the responsibilities of wildland owners/managers and state/tribal air quality managers to coordinate fire activities, minimize air pollutant emissions, manage smoke from prescribed fires as well as wildland fires used for resource benefits, and establish emergency action programs to mitigate the unavoidable impacts on the public.

EPA does not directly regulate the use of fire within a state or in Indian country. The agency's authority is to enforce the requirements of the CAA, which requires states to attain and maintain the National Ambient Air Quality Standards (NAAQS) adopted to protect public health and welfare. The Air Quality Policy on Wildland and Prescribed Fires recommends that states/tribes implement Smoke Management Plans (SMPs) to mitigate the public health and welfare impacts of fires managed for resource benefits. The SMPs establish a basic framework of procedures and requirements for managing smoke from fires managed for resource benefits and are typically developed by states/tribes with cooperation and participation by wildland owners/managers. The goal of SMPs is to prevent deterioration of air quality and NAAQS violations; to address visibility impacts in mandatory Class 1 Federal areas; and to reduce the nuisance and public safety hazards posed by smoke intrusions into populated areas.

The SMP serves as the operational plan for the state administrative rule, R307–204, by providing the direction and operating procedures for all organizations involved in the use of prescribed fire, wildfire, and wildland fire use. The procedures that land managers are required to follow to mitigate the impact of smoke on public health and visibility in the State is established by the rule, R307–204. The

[1] See EPA's ''Interim Air Quality Policy on Wildland and Prescribed Fires'' May 15, 1998.

Utah Enhanced Smoke Management Plan (ESMP)),[2] (Appendix B of the SMP), provides details on the visibility requirements of the Regional Haze Rule, 40 CFR 51.309(d)(6), and operating procedures to reduce visibility impacts from smoke in Class 1 Federal areas.[3] The SMP was approved by the EPA on Nov. 8, 1999,[4] under the Interim Air Quality Policy on Wildland and Prescribed Fires. The requirements established in the SMP provide the framework for R307–204 Emission Standards: Smoke Management. Previously, EPA approved the September 29, 2011 R307–204 submittal which superseded and replaced the R307–204 portion of the December 12, 2003 submittal and all of the May 8, 2006 submittal.

II. The EPA's Evaluation

Section 110(k) of the CAA addresses the EPA's rulemaking action on SIP submissions by states. The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to the EPA. Section 110((a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to EPA.

Pursuant to 40 CFR 51.309(d)(6), a state must show that its smoke management program and all federal or private programs for prescribed fire in the state have a mechanism in place for evaluating and addressing the degree of visibility impairment from smoke in their planning and application of burning. A state must also ensure that its prescribed fire smoke management programs have at least the following seven elements: Action to minimize emissions; evaluation of smoke dispersion; alternatives to fire; public notification; air quality monitoring; surveillance and enforcement; and program evaluation.

On June 5, 2019 the State of Utah's Department of Environmental Quality, Air Quality Board approved proposed amendments to R307–204 to include requirements established by the Utah State Legislature set forth in 2019 H.B. 155.[5] A public comment period was held from July 1 to July 31, 2019. One non-substantive comment was received, and no public hearing was requested. The main purpose for amending R307–204 was to meet the requirements set forth in 2019 H.B. 155 which states:

> ''In the rules made by the board . . . . . the board shall require the land manager to:
>
> (i) describe the use of state, county, or municipal resource in the large prescribed fire or large prescribed pile fire;
>
> (ii) provide the division the burn plan for a large prescribed fire or large prescribed pile fire by no later than one week before the day of the burn window; and
>
> (iii) notify the division of nonfull suppression event once a fire becomes a nonfull suppression event.''

The rule revisions include removing outdated terminology, such as, ''wildland fire use,'' ''plan stage'' and language regarding adjusting fire emission factors. Also, in EPA's 1998 ''Interim Air Quality Policy on Wildland and Prescribed Fires,'' it is stated that federally prescribed fire projects would be considered to conform with the implementation plan if they are managed under a certified basic SMP. Since, Utah's SMP meets that criteria, the State will be removing conformity from R307–204. Finally, Section R307–204–6. Small Prescribed Fires (de minimis), R307–204–7. Small Prescribed Pile Fires (de minimis), Section R307–204–8. Large Prescribed Fires and R302–20–9. Large Prescribed Pile Fires will be combined to reduce redundancies.

III. Proposed Action

EPA is proposing to approve a SIP revision submitted by the State of Utah on November 5, 2019. The revisions meet the requirements set forth in Utah's State Legislature's H.B. 155 and reduce redundancies and outdated portions of the rule, while also streamlining it. EPA is proposing to approve revisions to sections: R307–204–1. Purpose and Goals; R307–204–2. Applicability; R307–204–3. Definitions; R307–204–4. General Requirements; R307–204–5. Burn Schedule; R307–204–6. Small Prescribed Fires (de minimis); R307–204–7. Small Prescribed Fires (de minimis); R307–204–8. Large Prescribed Fires; R307–204–9. Large Prescribed Pile Fires; and R307–204–10. Requirements for Wildland Fire Use Events. The revision for R307–204 meets the applicable CAA requirements and contains smoke management requirements for land managers within the State of Utah as required by 40 CFR 51.309(d)(6).

IV. Incorporation by Reference

In this document, the EPA, is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Utah rules promulgated in the Division of Administrative Rule (DAR), R307–204–1, R307–204–2, R307–204–3, R307–204–4, R307–204–5, R307–204–6, R307–204–7, R307–204–8, R307–204–9 and R307–204–10, as discussed in section III of the preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

[2] See docket for Utah's Enhanced Smoke Management Plan August 1, 2003.

[3] Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acre, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of the Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a Mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider having visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas. Each mandatory Class I Federal area is the responsibility of a 'Federal Land Manager.''

[4] See docket for Utah's Smoke Management Plan approved in 1992 and last revised on January 16, 2006.

[5] See docket for Utah's State Legislature's H.B. 155 from the 2019 General Session.

- 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, 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 proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 11, 2021.

Debra Thomas,

Acting Regional Administrator, EPA Region 8.

[FR Doc. 2021–03277 Filed 2–25–21; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0467; FRL–10020–71–Region 5]

Air Plan Approval; Illinois; Public Participation in the Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Illinois State Implementation Plan (SIP) that were submitted on August 27, 2020 by the Illinois Environmental Protection Agency (IEPA). These revisions affect the public notice rule provisions for the New Source Review (NSR) and title V Operating Permit programs (title V) of the Clean Air Act (CAA). The revisions remove the mandatory requirement to provide public notice of draft CAA permits in a newspaper and allow electronic notice (e-notice) as an alternate noticing option. EPA is proposing to approve these revisions pursuant to the CAA and implementing Federal regulations.

DATES: Comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0467 at *http://www.regulations.gov,* or via email to *damico.genevieve@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Daniel Wolski, Physical Scientist, Air Permitting Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0557, *wolski.daniel@epa.gov.* The EPA Region 5 office 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.

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

I. Background

On October 5, 2016, EPA finalized revised public notice rule provisions for the NSR, title V, and Outer Continental Shelf permitting programs of the CAA. *See* 81 FR 71613 (October 18, 2016). These rule provisions remove the mandatory requirement to provide public notice of a draft air permit through publication in a newspaper and allow for internet e-notice as an option for permitting authorities implementing their own EPA-approved SIP rules and title V rules. Permitting authorities are not required to adopt e-notice. A permitting authority with an EPA-approved permitting program, such as IEPA, may continue to use newspaper notification or supplement e-notice with newspaper notification or additional means of notification. When e-notice is provided, EPA's rule requires electronic access (e-access) to the draft permit. Generally, state and local agencies are expected to post the draft permits and public notices in a designated location on their agency websites. For the noticing of draft permits issued by permitting authorities with EPA-approved programs, the rule requires the permitting authority to use ''a consistent noticing method'' for all permit notices under the specific permitting program. Permitting authorities must also provide the public with reasonable access to the other materials that support the permit decision (*e.g.,* the permit application, statement of basis, fact sheet, preliminary determination, final determination and response to comments) as required by existing regulations, however such materials which comprise the permit record may be provided either electronically, at a physical location, or a combination of both.

EPA anticipates that e-notice, which is already being practiced by many

permitting authorities, will enable permitting authorities to communicate permitting and other affected actions to the public more quickly and efficiently and will provide cost savings over newspaper publication. EPA further anticipates that e-access will expand access to permit-related documents. A full description of the e-notice and e-access provisions are contained in EPA's October 18, 2016, rulemaking (81 FR 71613).

II. Analysis of Illinois' E-Notice Rule Revisions

IEPA revised Chapter 35 Illinois Administrative Code (IAC) part 252, *Public Participation in the Air Pollution Control Permit Program,* to incorporate EPA's amendments to the Federal public notice regulations discussed above. Specifically, IEPA revised 35 IAC 252 section 201, ''Notice and Opportunity to Comment'' and section 204, ''Availability of Documents''. IEPA's revisions to 35 IAC 252 section 201 add language to allow for the use of e-notice for certain air permit hearings, including those regarding major stationary source construction and modification (IEPA's nonattainment NSR program), CAA Permit Program permits (IEPA's title V program), and others, by providing notice to the public by prominent placement at a dedicated page on IEPA's website. Revisions to part 252 section 204 specify the location of certain permitting documents and allow a copy of the draft permit to be placed on a dedicated page on IEPA's website for the duration of the public comment period.

IEPA's regulations were the subject of a public hearing on January 11, 2018 and were adopted on August 17, 2018 with an effective date of August 1, 2018. EPA received IEPA's SIP submittal on August 27, 2020. Based on a review of the proposed revisions, EPA has preliminarily determined that IEPA's revisions meet the requirements of the Federal e-notice provisions.[1]

III. What Action is EPA Taking?

EPA is proposing to approve IEPA's August 27, 2020 SIP program revisions addressing public notice requirements for CAA permitting. EPA has preliminarily concluded that the State's submittal meets the plan revisions requirements of CAA section 110 and the implementing regulations at 40 CFR 51.161, 40 CFR 70.4 and 70.7.

[1] IEPA has submitted additional SIP revision requests which will impact part 252. These submittals will be the subject of forthcoming EPA actions.

IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference revisions to 35 IAC part 252 section 201 ''Notice and Opportunity to Comment'' and section 204, ''Availability of Documents'', effective August 1, 2018. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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. 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, 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Administrative practice and procedure, Incorporation by reference, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: February 22, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2021–03982 Filed 2–25–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0013; FRL–10019–66–Region 9]

Air Plan Limited Approval, Limited Disapproval; Arizona; Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of a portion of a state implementation plan (SIP) submission made by the State of Arizona to address Moderate area nonattainment plan requirements for purposes of the 1987 24-hour national ambient air quality standards (NAAQS) for particulate matter less than 10 microns in diameter (PM_{10}). The SIP submission includes an amended statute

and certain state rules that govern emissions of particulate matter (PM) from agricultural activity.

DATES: Comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0013 at *http://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.* 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 FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3848 or by email at *levin.nancy@epa.gov.*

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

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I. The State's Submission

A. What did the State submit?

The Arizona Department of Environmental Quality (ADEQ) made a SIP submission to address emissions of PM from certain emission sources located in the West Pinal County PM_{10} nonattainment area of Arizona.[1] In this submission, the ADEQ seeks to revise the existing EPA-approved SIP for Arizona by modifying an existing state statutory provision and adding related regulatory requirements specific to the West Pinal County PM_{10} nonattainment area. Table 1 lists the statute and rules addressed in this proposed rule along with the date of submission and the effective dates of the respective elements of the SIP submission.

TABLE 1—SUBMITTED STATUTE AND RULES

Arizona Revised Statutes (ARS)	Statute title	Effective	Submitted
ARS section 49–457	Agricultural best management practices committee; members; powers; permits; enforcement; preemption; definitions.	12/31/15	12/21/15
Arizona Administrative Code (AAC)	**AAC Title**	**Amended/ Effective**	**Submitted**
AAC R18–2–611	Definitions for R18–2–611.01[2]	07/02/15	12/21/15
AAC R18–2–611.03	Agricultural PM General Permit for Animal Operations; Pinal County PM Nonattainment Area.	07/02/15	12/21/15

On March 21, 2016, the EPA determined that the SIP revisions submitted by the ADEQ and listed in Table 1 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are there other versions of the statute and rules?

We approved an earlier version of ARS section 49–457 into the SIP on June 29, 1999 (64 FR 34726). There are no previous versions of AAC R18–2–611 ''Definitions for R18–2–611.01'' or AAC R18–2–611.03 ''Agricultural PM General Permit for Animal Operations; Pinal County PM Nonattainment Area'' in the SIP.

We note that on October 11, 2001, we approved AAC R18–2–611, ''Agricultural PM–10 General Permit; Maricopa PM_{10} Nonattainment Area'' into the Arizona SIP, which applies to Maricopa County commercial farmers (crop operations). *See* 66 FR 51869 (October 11, 2001). The December 21, 2015 submittal of rule AAC R18–2–611, ''Definitions for R18–2–611.01'' is a separate rule that applies to certain animal operations in Maricopa County and West Pinal County PM_{10} nonattainment areas, among other areas, and was not submitted to replace the existing SIP-approved rule AAC R18–2–611, ''Agricultural PM–10 General Permit; Maricopa PM_{10} Nonattainment Area.'' If the EPA approves the new rule AAC R18–2–611, ''Definitions for R18–2–611.01'' into the Arizona SIP, there will be two different rules in the SIP with the same number, but they would be differentiated by their different titles and dates.

C. What is the purpose of the submitted rules and statutory revisions?

Emissions of PM, including PM_{10}, contribute to effects that are harmful to

[1] On December 21, 2015, Arizona submitted the West Pinal County PM_{10} Plan, intended to address the Moderate area nonattainment requirements, to the EPA as a revision to the Arizona SIP. The rules addressed in this proposed rule were included as part of Appendix G to this plan submission. We have previously acted on the additional rules contained in Appendix G (82 FR 20267, May 1, 2017), and have proposed action on the remainder of the submission in a separate **Federal Register** proposed rule. 86 FR 1347 (January 8, 2021).

[2] The title of the new rule R18–2–611 was mistakenly labeled as ''Definitions for R18–2–611.01'' in the submitted strikeout version of the rule. *See* page GVI–19. Since this new rule also applies to AAC R18–2–611.02 and R18–2–611.03, a correction to the title of the new AAC 18–2–611 was made in the codified version of the rule. *See* April 13, 2017 Email from N. Muilenberg, ADEQ to N. Levin, EPA, Re_quick question on title for R18–2–611.pdf.

human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. The Clean Air Act (CAA or the Act) requires states to have SIPs that provide for attainment, maintenance, and enforcement of the PM_{10} NAAQS, including the adoption and implementation of regulations to control PM emissions in designated PM_{10} nonattainment areas. ADEQ's submission addresses emissions from certain sources of PM_{10} emissions through a statutory provision and several regulations.

First, this submission would revise the existing SIP-approved version of ARS section 49–457 by, among other things, expanding the definition of ''regulated agricultural activities'' to include activities of dairies, beef feedlots, poultry facilities, and swine facilities. It would also expand the definition of ''regulated area'' to apply to any PM_{10} nonattainment areas designated by the EPA on or after June 1, 2009, which includes the West Pinal County PM_{10} nonattainment area.[3] It would preempt ''further regulation'' of regulated agricultural activities by other jurisdictions (*e.g.,* counties, cities, and towns).

Second, this submission would add new regulations to the Arizona SIP, applicable to the West Pinal County PM_{10} nonattainment area. AAC R18–2–611.03 requires that commercial dairy operations, beef cattle feedlots, poultry facilities, and swine facilities implement best management practices (BMPs) to reduce PM_{10} emissions from those sources. The new AAC R18–2–611 provides definitions for AAC R18–2–611.03 and other animal operations BMP rules.

The EPA's technical support documents (TSDs) have more information about the statute and rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the statute and rules?

SIP rules must meet applicable substantive requirements, *e.g.,* must be sufficiently stringent (see CAA sections 172(c)(1) and 189(a)(1)(C)), must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

States must adopt and implement reasonably available control measures (RACM), including reasonably available control technology (RACT), in Moderate PM_{10} nonattainment areas (see CAA sections 172(c)(1) and 189(a)(1)(C)).[4] The EPA has addressed the State's nonattainment plan SIP submission for the West Central Pinal PM_{10} area with respect to the RACM/RACT requirement in a separate proposed action.[5]

Guidance and policy documents that we use to evaluate control rules submitted for PM_{10} nonattainment areas, including enforceability, revision/relaxation, and rule stringency requirements, include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
5. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).
6. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.
7. ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,'' EPA 450/2–92–004, September 1992.

B. Do the statute and rules meet the evaluation criteria?

The revised statute and rules largely meet the evaluation criteria, with the exception of the specific deficiencies identified in section II.C below.

With respect to enforceability, AAC R18–2–611.03 states clear requirements, specifying that animal operators ''shall implement'' or ''shall apply and maintain'' BMPs.[6] The rule is clear about what is required of sources, and it establishes recordkeeping requirements requiring operators to demonstrate compliance with the agricultural BMP (AgBMP) requirements.[7] The rule also provides in paragraph N that ''[t]he Director shall document noncompliance with this section before issuing a compliance order,'' and in paragraph O that ''[a] commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49–457(I), (J), and (K).''

Paragraphs I, J, and K of ARS section 49–457 provide a mechanism for the ADEQ director to revoke the agricultural general permit for an operator. These paragraphs set out a three-step process that the director may take if the director determines that a person who is engaged in a regulated activity is not in compliance with the agricultural PM general permit. First, for persons not previously subject to a compliance order, the director may issue an order requiring compliance with the general permit and specifying a period of not less than 60 days for the operator to submit a plan to the appropriate natural resource conservation district identifying the BMPs the operator will use to comply with the general permit. If noncompliance is repeated or continues, the director may issue a second order, requiring the submission of a plan to the ADEQ, within a specified period of time of not less than 60 days, specifying the BMPs the operator will use to comply with the general permit. Third, if the operator is still not complying with the terms of the agricultural general permit, the director may revoke the general permit with respect to that operator, and require that the operator obtain an individual permit, pursuant to ARS section 49–426.[8]

Because the provisions in paragraphs I, J, and K refer to the ''director,'' the EPA understands that these provisions relate only to authorities of the ADEQ director. Provided that the statute and rules do not preclude enforcement of a violation of the terms of an agricultural general permit outside of the provisions in these paragraphs, states may elect to provide a specific means and process by which the director may revoke the agricultural general permit with respect to a particular operator.

Based on our review of the submission and the State's general enforcement authority, the EPA concludes that the procedure laid out in paragraphs I, J, and K does not inappropriately constrain the State's own authority to enforce a violation of an agricultural general permit. The EPA

[3] This submission also expands the regulated area to any portion of area A that is located in a county with a population of two million or more persons. Area A is defined in ARS section 49–451.

[4] The West Pinal County PM_{10} nonattainment area was classified as Moderate (40 CFR 81.303) on May 31, 2012 (77 FR 32024) and subsequently reclassified, by operation of law, to Serious on June 24, 2020 (85 FR 37756).

[5] 86 FR 1347 (January 8, 2021).

[6] AAC R18–2–611.03 paragraphs A and B.

[7] Id. at paragraphs H and J.

[8] Id. at paragraphs I, J, and K.

notes that in addition to ARS section 49–457, the ADEQ has additional enforcement authorities, including those laid out in ARS sections 49–460, 49–461, 49–462, and 49–463.[9] These provisions provide the ADEQ with broad enforcement authority, including the authority to serve an order of abatement, or file a complaint in state court seeking penalties or injunctive relief against any person who ''has violated or is in violation of any provision of this article, any rule adopted pursuant to this article or any requirement of a permit issued pursuant to this article.'' [10] Because ARS section 49–457 is included in the same article as these broad enforcement authorities, the EPA interprets Arizona law as providing adequate authority to the ADEQ to enforce a violation of an agricultural general permit issued pursuant to ARS section 49–457 without invoking the procedures set out in paragraphs I, J, and K. The EPA is not aware of any provisions of state law to the contrary.

Accordingly, the EPA concludes that the submitted rules and statutory amendments contain clear and enforceable requirements, and that the State possesses adequate authority to enforce the requirements for the agricultural general permit as set out in the submitted rules. If approved into the SIP, the submitted rules will be enforceable by the EPA, and by citizens through section 304 of the Act. Moreover, the procedures laid out in paragraphs I, J, and K do not affect the ability of the EPA and the public to enforce violations of ARS section 49–457 and the submitted rules. The EPA interprets those provisions to be specifications on ADEQ's exercise of its own enforcement discretion, setting out a procedure for revoking a permit, separate from the State's general enforcement authority. Neither EPA nor citizen suit plaintiffs are required to follow the same three-step process if they seek to enforce in the event of alleged violations.

With respect to the criterion of stringency, because the rules and revised statute were submitted as part of a PM_{10} Moderate area nonattainment plan, they are subject to the section 172(c)(1) RACM/RACT requirement. As discussed above, the EPA generally evaluates whether a state has met the RACM/RACT requirement for PM_{10} in the context of its evaluation of the entire nonattainment plan SIP submission because the RACM/RACT analysis is interrelated with other nonattainment plan elements such as reasonable further progress and the modeled attainment demonstration. Accordingly, we are not evaluating the submitted statute and rules for RACM/RACT level stringency in this action since we have addressed the RACM/RACT requirement for the West Pinal County PM_{10} nonattainment area in a separate proposal.[11]

With respect to the evaluation criterion regarding SIP revisions, section 110(l) of the CAA provides that ''[t]he Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress . . . or any other applicable requirement of [the Act].'' Approving the submitted statute and rules into the SIP would expand the applicability of ARS section 49–457 to additional parts of the State, including the West Pinal County PM_{10} nonattainment area, and would add new BMP requirements to animal operations in Pinal County. These changes would strengthen the SIP by regulating a broader class of sources, in a larger portion of the State. However, the submitted statute and rules also contain deficiencies that would interfere with applicable requirements of the Act. These deficiencies are identified in the following section of this proposed rule and described in detail in the TSDs contained in the docket for this action.

C. What are the deficiencies?

The submitted provisions do not satisfy the requirements of section 110 and part D of title I of the Act and prevent full approval of the statutory revision and rules. We propose a limited disapproval of the statutory revision and rules based on the following deficiencies:

1. Subsection O of revised ARS section 49–457 may relax the SIP by preempting, as a matter of state law, more stringent existing SIP-approved rules. Although such preemption could not remove the preempted rules from the SIP without an EPA action under section 110(k) of the Act, the preemption of these rules as a matter of state law would render state authority for the preempted rules insufficient under section 110(a)(2).[12]

2. Section H of revised ARS section 49–457 exempts a person who is subject to an agricultural general permit from the permitting requirement in ARS section 49–426. The scope of the exemption in subsection H for Maricopa County is bounded by a rule that is not in the SIP (nor has it been submitted to the EPA for SIP approval). Specifically, AAC R18–2–611.01, the animal operations AgBMP rule for Maricopa County, is not in the SIP, and the exemption in subsection H is based on a source being subject to the permit that is established under this rule. This would allow changes to the scope of the exemption, and thus changes to the SIP, without the process required by section 110 of the Act.

3. The exemption in subsection H of revised ARS section 49–457 is not limited to minor sources and could exempt a major stationary source from CAA New Source Review (NSR) and title V permitting requirements.

4. The exemption in subsection H of revised ARS section 49–457 is overbroad because although it is triggered by the ability to emit PM_{10}, the exemption itself is not clearly limited to requirements under the PM_{10} NAAQS and could apply to other criteria pollutants as well.

5. The exemption in subsection H of revised ARS section 49–457 may exempt non-fugitive emissions from review under the ADEQ minor NSR program, without a showing that such exemption would be inconsequential to attainment and maintenance of the NAAQS.

6. Paragraph K of AAC R18–2–611.03 provides that a person may develop different PM-reducing management practices than those contained in the rule, and may ''submit such practices that are proven effective through on-operation demonstration trials to the [AgBMP] Committee.'' The paragraph states that ''new best management practices shall not become effective unless submitted as described in A.R.S. § 49–457(L).'' Subpart L of A.R.S. section 49–457 states that any approved modifications to the BMPs shall be submitted to the EPA as a revision to the

[9] Approved into the SIP on November 5, 2012 (77 FR 66398).

[10] Parallel provisions are included for enforcement at the County level. See ARS sections 49–510, 49–511, 49–512 and 49–513, also approved into the SIP on November 5, 2012 (77 FR 66398).

[11] 86 FR 1347 (January 8, 2021).

[12] In addition, the inclusion of this provision in the SIP may introduce some uncertainty in the regulated community regarding what requirements are applicable. The EPA does not understand the submitted revision to ARS section 49–457 as requesting to remove any potentially preempted rules from the SIP, or otherwise impacting the enforceability of such rules that are already SIP-approved. The EPA understands the provision as stating that certain provisions are preempted as a matter of state law. Accordingly, the EPA's proposed limited approval and limited disapproval of ARS section 49–457 would not remove any such rules from the SIP, ''preempt'' them in any way as a matter of federal law, or otherwise impact their federal enforceability. If the State wishes to remove particular requirements from the SIP, it should submit a request, pursuant to section 110 of the Act, requesting that specifically-identified provisions be removed.

SIP. Including this provision in the SIP would allow a new BMP to ''become effective'' in the SIP-approved rule simply upon submission of the modifications to the EPA and without the actual SIP revision required under CAA section 110. This constitutes inappropriate director's discretion. A state may modify its rules and submit those to the EPA as potential revisions of the SIP, or it may provide that substantive changes to a SIP-approved rule become effective upon EPA approval into the SIP, but it may not effectively modify the SIP-approved rule by simply submitting the changes to the EPA for evaluation.

The deficiencies with the statute and rules are described in greater detail in the TSDs.

D. EPA Recommendations To Further Improve the Statute and Rules

The TSDs describe additional revisions that we recommend if the State elects to modify the statute and rules to make them appropriate for full approval as part of the Arizona SIP.

E. Proposed Action and Public Comment

Despite the deficiencies identified above, the EPA believes that the Arizona SIP would be strengthened by the addition of the statutory revision and rules. A limited approval of the provisions would place new control requirements on a category of sources that have a substantial emission impact in the West Pinal PM_{10} nonattainment area. Although the statutory revision and rules also introduce problematic provisions regarding preemption and permitting exemptions, the EPA anticipates that the expansion of control requirements to this important class of sources will provide an emissions reduction benefit in excess of any emissions increase that may result from the preemption and permitting deficiencies. Therefore, as authorized by the grant of authority to approve and disapprove SIP submissions contained in section 110(k)(3) of the Act, we are proposing a limited approval and limited disapproval of the State's nonattainment plan SIP submission with respect to the revision of the existing SIP approved version of ARS section 49–457 and the inclusion of new rules AAC R18–2–611 and R18–2–611.03 into the SIP.

The proposed limited approval and limited disapproval would put the entirety of the submitted statutory revision and rules in the SIP, including those provisions identified as deficient. It would simultaneously disapprove the deficiencies enumerated in section II.C. and would start sanction and Federal Implementation Plan (FIP) clocks for these deficiencies, as detailed below.

If we finalize a limited disapproval, CAA section 110(c) would require the EPA to promulgate a FIP no later than two years after the disapproval unless the State submits, and we approve, a subsequent SIP submission that corrects the deficiencies identified in the final action.

In addition, a final limited disapproval would trigger the offset sanction in CAA section 179(b)(2) 18 months after the effective date of a final limited disapproval, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the deficiencies identified in our final action before the applicable deadline.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

III. 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 rules and statute described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *http://www.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 action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 16, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021–03482 Filed 2–25–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2020–0674; FRL–10020–67–Region 9]

Air Plan Approval; California; Yolo-Solano Air Quality Management District; Graphic Arts Printing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Yolo-Solano Air Quality Management District (YSAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from graphic arts printing operations. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2020–0674 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* 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 FURTHER INFORMATION CONTACT: Nicole Law or Shaye Hong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone at (415) 947–4126 or (415) 947–4104, or by email at *Law.Nicole@epa.gov* or *Hong.Shaye@epa.gov.*

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

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was revised by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Revised	Submitted
YSAQMD	2.29	Graphic Arts Printing Operations	07/11/2018	08/20/2018

On August 23, 2018, the EPA determined that the submittal for YSAQMD Rule 2.29 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved an earlier version of Rule 2.29 into the SIP on August 21, 1998 (63 FR 44792). The YSAQMD adopted revisions to the SIP-approved version on August 13, 1997, and May 14, 2008, but those revisions were never submitted to the EPA. We have evaluated and compared the most recent submittal to the existing SIP approved version of Rule 2.29. If we take final action to approve the August 23, 2018 version of Rule 2.29, this version will

replace the previously approved version of this rule in the SIP.

C. What is the purpose of the submitted rule revision?

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Rule 2.29 establishes VOC content limits and workplace standards to reduce emissions related to graphic arts operations. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The YSAQMD regulates an ozone nonattainment area classified as ''Severe'' for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and ''Moderate'' for the 2015 8-hour ozone NAAQS (40 CFR 81.305). Therefore, this rule must implement RACT.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. ''Control Techniques Guidelines for Flexible Package Printing,'' EPA 453/R–06–003, September 2006.
5. ''Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing.'' EPA 453/R–06–002, September 2006.
6. ''Control of Volatile Organic Emissions from Existing Stationary Sources- Volume VIII: Graphic Arts-Rotogravure and Flexography,'' EPA–450/2–78–033, December 1, 1978.

B. Does the rule meet the evaluation criteria?

This rule meets CAA requirements and is consistent with relevant guidance regarding enforceability, RACT, and SIP revisions. The TSD has more information on our evaluation.

C. EPA Recommendations To Further Improve the Rule

The TSD includes recommendations for the next time the local agency modifies the rule.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until March 29, 2021. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. 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 YSAQMD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. 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 proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 19, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021–03854 Filed 2–25–21; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2020–0324, FRL–10018–42–Region 2]

Approval and Promulgation of Implementation Plans; New York; Ozone Season NO_X Controls for Simple Cycle and Regenerative Combustion Turbines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the New York State Implementation Plan (SIP) for ozone concerning the control of oxides of nitrogen (NO_X). The EPA is proposing to approve a SIP revision of a New York regulation that lowers allowable NO_X emissions from simple cycle and regenerative combustion turbines during the ozone season. The lower emissions from these sources will help to address Clean Air Act (CAA) requirements, ozone nonattainment, and protect the health of New York State residents.

DATES: Written comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2020–0324 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, 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.*

FOR FURTHER INFORMATION CONTACT: Fausto Taveras, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, at (212) 637–3378, or by email at *Taveras.Fausto@epa.gov.*

SUPPLEMENTARY INFORMATION: The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

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I. What action is the EPA proposing?
II. What is the background for this proposed rulemaking?
III. What did New York submit?
IV. What is the EPA's evaluation of New York's SIP submittal?
V. Incorporation by Reference
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I. What action is the EPA proposing?

The EPA is proposing to approve a revision to the New York SIP submitted by the State of New York on May 18, 2020. The SIP revision includes a newly-adopted regulation, Title 6 of the New York Code of Rules and Regulations (NYCRR), Subpart 227–3, ''Ozone Season Oxides of Nitrogen (NO_X) Emission Limits for Simple Cycle and Regenerative Combustion Turbines'', that reduces NO_X emissions from simple cycle and regenerative combustion turbines during the ozone season. The EPA is proposing to approve New York's May 2020 SIP submittal, which applies to major sources of NO_X, as a SIP-strengthening measure for New York's ozone SIP.

The EPA is also proposing to approve into the SIP the new version of 6 NYCRR Subpart 227–3, ''Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program'' (New York's 227–3 Trading Program Regulation). New York's 227–3 Trading Program Regulation contained a NO_X emissions budget and allowance trading system that is no longer in effect and that New York repealed from the New York Code of Rules and Regulations on September 5, 2014.

II. What is the background for this proposed rulemaking?

2008 and 2015 Ozone NAAQS Revisions

In March 2008, EPA revised the health-based National Ambient Air Quality Standard (NAAQS) for ozone to 0.075 parts per million (ppm) averaged over an 8-hour time frame (2008 8-hour ozone standard). In October 2015, the EPA revised this standard to 0.070 ppm averaged over an 8-hour time frame (2015 8-hour ozone standard).

On May 21, 2012, the EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 2008 8-hour ozone standard and, on July 20, 2012, the designations became effective. *See* 77 FR 30160 (May 21, 2012). The New York-Northern New Jersey-Long Island Connecticut metropolitan area (NYMA) was designated by the EPA as a ''marginal'' nonattainment area for the 2008 ozone NAAQS.[1] In 2016, the EPA determined that the NYMA did not attain the 2008 ozone standard by the July 20, 2015 attainment date and was reclassified from a ''marginal'' to a ''moderate'' nonattainment area. *See* 81 FR 26697 (May 4, 2016). State attainment plans for ''moderate'' nonattainment areas were due by January 1, 2017. *See* id. On April 30, 2018, the EPA finalized its attainment/nonattainment designations for most areas across the country as to the 2015 8-hour ozone standard, in which the NYMA was designated by the EPA as a ''moderate'' nonattainment area. *See* 83 FR 25776 (June 4, 2018). On September 23, 2019, the EPA reclassified the NYMA to ''serious'' nonattainment as to the 2008 8-hour ozone standard. *See* 84 FR 44238 (August 23, 2019). The serious area attainment date and the deadline for RACT measures not tied to attainment is July 20, 2021. *See* id.

New York's NO_X Trading Programs

On April 19, 2000, the EPA approved New York's 227–3 Trading Program Regulation into New York's SIP for ozone. *See* 65 FR 20905 (April 19, 2000). New York's 227–3 Trading Program Regulation implemented New York's NO_X budget and allowance trading program for large electricity and industrial sources. The regulation addressed New York's portion of the Ozone Transportation Commission (OTC) regional nitrogen oxides budget and allowance (NO_X Budget) trading program that reduced NO_X emissions generated within the Ozone Transport Region, which included New York State. The OTC had adopted a Memorandum of Understanding (MOU) on September 27, 1994, which obligated signatory states to regionwide ozone season reductions in NO_X emissions, with one phase of reductions occurring by 1999, and further NO_X emission reductions beginning in 2003 to help achieve attainment of the 1997 ozone NAAQS. New York's 227–3 Trading Program Regulation addressed the

[1] The New York portion of the NYMA, is composed of the five boroughs of New York City and the surrounding counties of Nassau, Suffolk, Westchester, Rockland and the Shinnecock Indian Nation. *See* 40 CFR 81.333.

emission reductions required by 1999, and included NO_X emission caps for the 1999, 2001, and 2002 ozone seasons.

New York's 6 NYCRR Subpart 204, NO_X Budget Trading Program, approved into the SIP on May 22, 2001 (*see* 66 FR 28059 (May 22, 2001)), superseded New York's 227–3 Trading Program, and addressed the additional NO_X emissions reductions required by the MOU beginning in 2003. Subpart 204 also addressed New York's transport obligations under the NO_X SIP call,[2] which was promulgated by EPA to address NO_X emissions that traveled across state boundaries that interfered with downwind attainment and maintenance of the 1979 ozone NAAQS.

In October 2005, the EPA promulgated the Clean Air Interstate Rule (CAIR) to address transported emissions that significantly contributed to downwind states' nonattainment and interfered with maintenance of the 1997 ozone (as well as 1997 $PM_{2.5}$ NAAQS).[3] CAIR included additional ozone season NO_X emission reductions beginning in 2009 under a Federal Implementation Plan (FIP). On January 24, 2008, the EPA approved a New York SIP revision, which established a CAIR state trading program for New York for ozone season NO_X emissions (as well as annual sulfur dioxide (SO_2) and annual NO_X emissions). *See* 73 FR 4109 (January 24, 2008). The EPA determined that New York's CAIR trading program rules, which replaced the existing CAIR FIP for New York, met the CAIR requirements. New York's CAIR Ozone Season Trading Program was implemented under NYCRR Subpart 243, ''CAIR NO_X Ozone Season Trading Program.'' New York's CAIR NO_X Ozone Season Trading Program superseded NYCRR Subpart 204.

CAIR was followed by the Cross-State Air Pollution Rule (CSAPR)[4] in August 2011. CSAPR addressed the same NAAQS as CAIR, as well as the 2006 $PM_{2.5}$ NAAQS.[5] CSAPR promulgated FIPs requiring affected States, including New York, to participate in federal trading programs to reduce ozone season NO_X emissions (as well annual SO_2 and annual NO_X emissions). CSAPR was updated in 2016 to address eastern states transport obligations with regard to the 2008 ozone NAAQS. Among other things, the CSAPR update further lowered New York's ozone season NO_X budget to address the more stringent ozone NAAQS. CSAPR required additional NO_X emission reductions under a FIP, which EPA began implementing on January 1, 2015.[6] Under CSAPR, states could submit an ''abbreviated'' SIP revision that, upon approval, replaced the default allocations and/or applicability provisions of CSAPR federal trading programs.

On August 8, 2019, the EPA approved a New York ''abbreviated'' SIP revision, which established New York's CSAPR state trading program for ozone season NO_X emissions (as well as annual SO_2 and annual NO_X emissions). *See* 84 FR 38878 (August 8, 2019). The EPA determined that New York's CSAPR trading program rules, which replaced provisions of the CSAPR FIP for New York, met the requirements of the CSAPR federal trading program. New York's CSAPR Ozone Season Trading Program was implemented under NYCRR Subpart 243, ''CSAPR NO_X Ozone Season Group 2 Trading Program.'' In the August 8, 2019 final rule approving New York's CSAPR trading program, EPA also approved a request by New York to rescind from the SIP NYCRR Subpart 243, ''CAIR NO_X Ozone Season Trading Program,'' which implemented New York's discontinued CAIR trading program for ozone season NO_X emissions. On November 12, 2015, New York adopted amendments to 6 NYCRR Subpart 243 that repealed and replaced CAIR trading program rules with CSAPR trading program rules. Subsequently, on November 11, 2018, New York adopted amendments to NYCRR Subpart 243 that repealed and replaced the November 12, 2015 adopted rules with new versions of New York's CSAPR trading program rules to conform with the EPA's 2016 CSAPR update. In a Direct Final Rule approving New York's CSAPR rules,[7] the EPA determined that, consistent with CAA section 110(l), the removal of New York's CAIR trading program rules, would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the NAAQS.

III. What did New York submit?

On May 18, 2020, the New York State Department of Environmental Conservation (NYSDEC or New York) submitted to the EPA a formal revision to its SIP. The proposed SIP revision consists of 6 NYCRR Subpart 227–3, ''Ozone Season Oxides of Nitrogen (NO_X) Emission Limits for Simple Cycle and Regenerative Combustion Turbines''. On December 11, 2019, New York adopted 6 NYCRR Subpart 227–3, ''Ozone Season Oxides of Nitrogen (NO_X) Emission Limits for Simple Cycle and Regenerative Combustion Turbines''.[8] Simple cycle combustion turbines (SCCTs), also known as peaking units (peakers), run to meet electric load during periods of peak electricity demand. These peakers generally have either no or low-level NO_X emission controls and typically operate during periods of elevated temperature when electric demand increases. Many of the peakers impacted by New York's rule are located in the New York portion of the NYMA. Due to peakers' low-level NO_X emission controls, peakers within the NYMA demonstrate very high NO_X emissions which contribute to the formation of ground-level ozone within the area. During these periods of elevated temperature, ozone levels tend to rise to unhealthy levels in ozone nonattainment areas. Inclusion in the SIP of more stringent NO_X emission limits for SCCTs located throughout the State, and particularly in the New York portion of the NYMA, would provide additional NO_X reductions to help attain the 2008 and 2015 ozone NAAQS and protect the health of New York residents. New York has elected to phase in the NO_X emission limits during the ozone season for SCCTs with a nameplate capacity of 15 megawatts (MWs) or greater that inject power into the transmission or distribution system. New York believes the phase-in approach for the NO_X emission limit would enable owners or operators with

[2] The NO_X SIP call (63 FR 57356, October 27, 1998) required 22 eastern states, including New York, to submit SIPs to address the regional transport of ozone through reductions in NO_X to help achieve the 1979 ozone NAAQS.

[3] CAIR (70 FR 25162, May 12, 2005) required 28 states, including New York, to reduce emissions of NO_X and SO_2.

[4] The EPA promulgated CSAPR (76 FR 48208, August 8, 2011) to replace CAIR, which was remanded to EPA in 2008 by the United States Court of Appeals for the District of Columbia.

[5] CSAPR Update rule (81 FR 74504, October 26, 2016) required 22 eastern states to limit emissions of NO_X.

[6] CSAPR implementation was stayed during the course of litigation in the D.C. Circuit and the Supreme Court until the D.C. Circuit lifted the stay on October 23, 2014.

[7] On May 21, 2019 (84 FR 22995 and 84 FR 22972), EPA simultaneously published a proposed rule and a direct final rule to approve new York's CSAPR trading program rules. The EPA received a public comment on the proposed rule and intended to withdraw the direct final rule prior to the effective date of June 20, 2019. However, the EPA inadvertently did not withdraw the direct final rule prior to that date and the rule prematurely became effective on June 20, 2019. In the August 8, 2019 final rule (84 FR 38878, August 8, 2019), the EPA responded to the public comment, approved the revised versions of New York's rules, and amended the effective date of the regulations' inclusion into the SIP.

[8] New York proposed the rule on February 27, 2019 and the public comment period ended on May 20, 2019. New York then re-proposed the rule on August 21, 2019 and the public comment period ended on October 7, 2019.

affected sources to plan over a longer term.

The rule requires, in pertinent part, all impacted SCCTs owners or operators to submit, by March 2, 2020, a compliance plan that, for each affected source, must contain identifying numbers (such as facility number, source number, and name) and a schedule that outlines how the owner or operator will comply with the rule's requirements. The compliance plan must also include a list of the emission sources in which the owner or operator will install controls, what those controls will be, and which sources will be replaced or repowered. NYSDEC has informed the EPA that the required compliance plans were received from the impacted SCCTs owners or operators.

As of May 1, 2023, the first phase of the NO_X emission limits will become effective, at which time the facility-level weighted average of each affected SCCT must comply with a daily NO_X emission limit of 100 ppmvd during the ozone season.[9] As of May 1, 2025, the second and final phase of NO_X emission limits will become effective, at which time the facility-level weighted average of each affected SCCTs must comply with a daily NO_X emission limit of 25 ppmvd for gaseous fuels and 42 ppmvd for distillate oil or other liquid fuel. The owner or operator of each affected SCCT must measure and monitor NO_X emissions by conducting a stack test, consistent with 6 NYCRR Section 227–2.6(c), at least once per permit term. Owners or operators may also choose to monitor with a Continuous Emissions Monitoring System (CEMS), consistent with 6 NYCRR Section 227–2.6(b), or with an equivalent monitoring system acceptable to New York. The owner or operator of each SCCT must also report operational data to New York as part of their annual compliance report.

Under Section 227–3.5, New York's rule provides two additional compliance options to offer flexibility for owners and operators to meet the emission limits. The first option would allow owners and operators of affected SCCTs to elect an ''ozone season stop'', by which the operating permit would include an enforceable condition that the affected source may not operate during the ozone season. The second option, the utilization of ''electric and renewable energy resources'', would allow owners and operators to employ alternative resources while adhering to a facility-level average NO_X daily emission limit on a pounds of NO_X per megawatt hour (lb/MWh) basis for all applicable SCCTs, electric storage resources, and/or renewable generation resources within the facility. Under the second option, as of May 1, 2023, all affected SCCTs that utilize electric storage and renewable resources must achieve an emission limit of 3.0 lb NO_X/MWh. Effective on May 1, 2025, affected gaseous fuels SCCTs must achieve a limit of 1.5 lb NO_X/MWh, while affected distillated oil or other liquid fuel SCCTs must achieve a limit of 2.0 lb NO_X/MWh.

In the May 18, 2020 SIP revision submittal, New York also requested that the EPA remove from the SIP its previous version of 6 NYCRR Subpart 227–3, ''Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program'', which New York repealed from the New York Code of Rules and Regulations on September 5, 2014.[10] New York's 227–3 Trading Program Regulation contained a NO_X emission and allowance trading program for large electricity and industrial sources that is no longer in effect. The EPA approved New York's 227–3 Trading Program Regulation on April 19, 2000. *See* 65 FR 20905 (April 19, 2000). The EPA approved administrative changes to the New York budget and allowance regulation on May 22, 2001. *See* 66 FR 28060 (May 22, 2001).

IV. What is the EPA's evaluation of New York's SIP submittal?

For the following reasons, the EPA is proposing to approve New York's SIP revisions.

Addition of New York's Ozone Season Oxides of Nitrogen (NO_X) Emission Limits for Simple Cycle and Regenerative Combustion Turbines

The EPA agrees with New York's evaluation that the newly-adopted regulation will lead to an estimated reduction of 18 tons of NO_X per high ozone day. An 18-ton NO_X reduction on a high ozone day would represent a reduction of over 10 percent of NYMA NO_X emissions from electricity sector and an overall reduction of 3.5 percent from all sources. This reduction will result in NO_X reduction throughout the NYMA, strengthen New York's ozone SIP, and help the State reach attainment for the 2008 and 2015 ozone NAAQS.

EPA has also reviewed New Jersey and Connecticut's NO_X emission limits for SCCTs with similar nameplate capacities and compared those limits with the limits adopted by NYSDEC in this rule. The EPA has observed that by the rule's second and final phase, the peaker NO_X emission limits will be as stringent as New Jersey's for any SCCT that is a High Electric Demand Day (HEDD) unit.[11] Connecticut adopted a similar phase-in approach as to NO_X emission limits for peakers and the EPA observed that New York's rule is more stringent than Connecticut's.[12]

As to the two additional compliance options mentioned in Section III, EPA proposes to approve (a) the ''ozone season stop'' compliance option because it would reduce the amount of peakers with low-level NO_X emission controls that are active during the ozone season and (b) the utilization of ''electric storage and renewable energy resources'' compliance option because it would enable owners and operators to comply with a weighted average out-put based daily emission limit while also reducing the reliance on SCCTs during high electrical demand days by encouraging owners and operators to utilize alternative, non-NO_X emitting resources.

The EPA has reviewed New York's SIP submittal, which seeks to incorporate 6 NYCRR Subpart 227–3, ''Ozone Season Oxides of Nitrogen (NO_X) Emission Limits for Simple Cycle and Regenerative Combustion Turbines''. After evaluating Subpart 227–3 for consistency with the CAA, EPA regulations, and EPA policy, the EPA proposes to find that the submission fully addresses the ozone nonattainment requirements found in CAA Section 172, 42 U.S.C. Section 7502, and proposes to approve this revision.

Removal of New York's Nitrogen Oxides Emissions Budget and Allowance Program (Ozone Control Periods 1999–2002)

The EPA agrees with New York's evaluation that the previous version of 6 NYCRR Subpart 227–3, ''Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program'', should be removed from the New York SIP. The EPA has determined that, as discussed in section II, both New York's 227–3 Trading Program Regulation and Subpart 204 have been superseded by

[9] The NO_X emission limits are on a parts per million dry volume basis (ppmvd), corrected to 15% oxygen.

[10] New York State Register, Volume XXXVI, Issue 38, 9/24/14.

[11] Table 7 of New Jersey's NO_X RACT regulation, Subchapter 19, provides Maximum Allowable NO_X Emission Rate for any Stationary Combustion Turbine that is a HEDD Unit. *See https://www.state.nj.us/dep/aqm/currentrules/Sub19.pdf.*

[12] Section 22a-174–22e of Connecticut's NO_X Emissions from Fuel-Burning Emission Units provides emission limitations for SCCTs being phased-in for June 2018 and June 2023. *See https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid=%7B8DB8E520-C8D2-4798-94E2-8740D90BA8B5%7D.*

other state and federal regulations that required additional NO_X ozone season emission reductions. As the EPA determined regarding New York's CAIR trading program rule, *see* section II, the EPA does not believe that the removal of New York's 227–3 Trading Program Regulation from New York's SIP will interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the NAAQS. And as discussed in section II, New York's 227–3 Trading Program Regulation predates more stringent rules and tighter NO_X ozone season budgets under the NO_X SIP call, CAIR, and CSAPR trading programs, as well as New York NO_X RACT rules; it is not applicable to the current federal or state regulatory framework. New York does not rely on emission reductions from New York's 227–3 Trading Program Regulation to attain any NAAQS and the EPA no longer operates the NO_X Budget Trading Program allowing for the allocation and trading of allowances. Therefore, New York's 227–3 Trading Program Regulation should be removed from the NY SIP.

The removal of New York's 227–3 Trading Program Regulation from New York's SIP will have no consequences for the attainment and maintenance of the NAAQS in any area, now or in the future. Consistent with CAA section 110(l), the EPA has determined that the removal of New York's 227–3 Trading Program Regulation will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the NAAQS. Accordingly, the EPA finds that it is appropriate to approve the removal of 6 NYCRR Subpart 227–3, ''Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program'', from the New York SIP.

The EPA is soliciting public comments on the issues discussed in this proposal. These comments will be considered before the EPA takes final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments as discussed in the **ADDRESSES** section of this rulemaking.

V. Incorporation by Reference

In this document, the EPA is also proposing to incorporate by reference NYSDEC rule discussed in section III of this preamble in accordance with the requirements of 1 CFR 51.5. The EPA has made, and will continue to make, these materials available through the docket for this action, EPA–R02–OAR–2020–0324, at *http://regulations.gov,* and at the EPA Region II Office (please contact the person identified in the **FOR FUTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 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 (2 U.S.C. 1501);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking action, addressing New York's adopted regulation that reduces NO_X emissions from simple cycle and regenerative combustion turbines during the ozone season, 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 any substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen Dioxide, Intergovernmental Relations, Ozone, Reporting and recordkeeping requirements, Volatile Organic Compounds.

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

Dated: February 18, 2021.

Walter Mugdan,

Acting Regional Administrator, Region 2.

[FR Doc. 2021–03775 Filed 2–25–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0126; FRL–10020–53–Region 5]

Air Plan Approval; Ohio; NSR Program Administrative Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, under the Clean Air Act (CAA), new and updated administrative rules for the Ohio State Implementation Plan (SIP) for the New Source Review (NSR) permitting program. The new and amended administrative rules in the Ohio Administrative Code (OAC) would replace the currently effective procedural rules in the NSR SIP in their entirety. As part of this action, EPA is also proposing to approve the removal of obsolete language related to Significant Deterioration of Air Quality.

DATES: Comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0126 at *http://www.regulations.gov,* or via email to *Damico.Genevieve@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for

submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Mari González, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6175, *Gonzalez.Mari@epa.gov.* The EPA Region 5 office 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.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background
II. What action is EPA taking?
III. Incorporation by Reference
IV. Statutory and Executive Order Reviews

I. Background

A. NSR Administrative Rules

On January 10, 2003 (68 FR 1366), EPA approved Ohio's procedural rules in OAC 3745–47 into the NSR SIP. These rules included processes for public notice procedures for permits in attainment and nonattainment areas.

On April 2, 2012, Ohio EPA adopted the new and amended rules of OAC 3745–47 and OAC 3745–49, which updated administrative and adjudication procedures and moved public notice procedures from OAC 3745–47 to OAC 3745–49.

On July 27, 2019, Ohio EPA adopted amendments to OAC 3745–49 to allow for modern electronic methods to be used for public noticing of SIP related projects and not limiting the process to publication of public notices in a newspaper.

On February 28, 2020, Ohio EPA submitted new and amended rules to EPA for approval which would replace OAC chapter 3745–47. The new and amended rules are located in OAC chapters 3745–49–01 ''Administrative Procedures'', 3745–49–02 ''Administrative procedures—definitions'', 3745–49–05 ''Draft actions and proposed actions'', 3745–49–06 ''Issuance of final actions'', 3745–49–07 ''Public notice'', and 3745–49–08 ''Contents of public notices''.

B. Significant Deterioration of Air Quality

On June 19, 2020, Ohio EPA submitted a request to remove obsolete language in 40 CFR 52.1884. As explained below, EPA is proposing to approve the deletion of this section from the SIP because Ohio has a SIP-approved Prevention of Significant Deterioration (PSD) program, and EPA concurs that the provision is obsolete.

II. What action is EPA taking?

A. NSR Administrative Rules

EPA is proposing to approve revisions to the Ohio SIP submitted on February 28, 2020. This submittal includes revisions which replace the entire existing SIP-approved procedural rules in OAC 3745–47 with the administrative rules from OAC 3745–49–01, 3745–49–02, 3745–49–05, 3745–49–06, 3745–49–07, and 3745–49–08.

The rules in OAC 3745–49–01, which EPA is proposing to approve, pertain to administrative procedures and are composed of reorganized portions of previously SIP-approved rules from OAC 3745–47–01, 3745–47–02, and 3734–03. These rules detail the applicability and construction of administrative procedures rules. EPA finds that the revisions are consistent with Federal provisions for administrative procedures for SIPs found in 40 CFR 51.163.

The rules in OAC 3745–49–02 contain administrative procedures definitions. This chapter of the rules contains reorganized definitions from previously approved chapter 3745–47–03, as well as new definitions. New definitions include: (C)(1) ''claimant'' which is added to define a person who claims information submitted to an agency is confidential because it constitutes a trade secret; (C)(2) ''complainant'' which defines a person who has filed a verified complaint; (P)(2) ''personal knowledge'' which is added to define knowledge gained through first hand observation or experience; (P)(4) ''proposed public copy'' which defines a version of information submitted to the agency which omits trade secret information; (P)(5) ''public copy'' which defines a version of information maintained by the agency which omits trade secret information; (P)(7) ''public record'' which is added to clarify that it has the same meaning as in section 149.43 of Ohio's Revised Code; (T) ''trade secret'' which is added to define information, not including discharge or emissions data, that is reasonable to maintain its secrecy and derives independent economic value from not being generally known; and (U) ''unredacted copy'' which defines a complete official version of information submitted to an agency from which trade secret information has not been withheld. The definition for (V) ''verified complaint'' which was previously approved into the SIP was revised and defined as a complaint which meets the requirements of ORC 3745.08 and OAC 3745–49–12. The remaining definitions in this section contain minor word changes and are reformatted versions of previously approved definitions from OAC 3745–47. The definitions in OAC 3745–49–02 are not defined within the Federal rules, and their approval into the SIP would not cause inconsistencies with the application of Federal regulations. EPA finds that the revised language and new definitions are consistent with Federal requirements for administrative procedures for SIPs found in 40 CFR 51.163.

The rules in OAC 3745–49–05, which EPA is proposing to approve, contain language on draft actions and proposed actions. This chapter contains language which has been reformatted and expanded from previously approved rules in OAC 3745–47–05 and 3745–47–07. EPA finds that the revisions are consistent with Federal requirements.

The rules in OAC 3745–49–06 contain language on the issuance of final actions. This chapter contains language which has been reformatted from previously approved rules in OAC 3745–47–05 and 3745–47–07. EPA finds that non-substantive changes have been made to the previously approved rule language, and the revisions are consistent with Federal requirements.

The rules in OAC 3745–49–07 contain updates to public notice requirements for SIP-related projects. This chapter contains reorganized and amended rules from previously approved chapter 3745–47–07 as well as new changes. The changes update noticing procedures

for public notices in subparts (B)(1) and (B)(2) related to Ohio's SIP developed under section 110 of the CAA to allow for more modern electronic methods to be used. EPA anticipates that allowing for electronic methods of providing notice, which is already being practiced by many permitting authorities, will allow permitting authorities to communicate affected actions to the public more quickly and efficiently, expand access, and will provide cost savings over newspaper publications. States are obligated to provide notice of new and updated SIPs and offer the opportunity to comment through hearings. The remaining changes in this chapter include minor revisions and reorganized rules. EPA has determined that the revised rules regarding public noticing of SIP-related projects comply with Federal definitions and provisions found at 40 CFR 51.102 which detail procedural requirements for public hearings related to the preparation, adoption, and submittal of implementation plans. EPA finds that the remaining minor revisions in this chapter are also consistent with Federal requirements.

The rules in OAC 3745–49–08 contain requirements for contents of public notices. This chapter contains reorganized rules from previously approved chapters 3745–47–08 and 3745–47–05, amended rules, as well as new requirements. New requirements were added in subparts (A)(3) and (D)(3) to require that public notices of actions and public meetings, respectively, include instructions for those desiring to obtain additional information, a copy of any factsheet prepared, or a copy of the action. Similarly, new requirements were also added to subparts (A)(4) and (D)(4) to require public notices of actions and public meetings to include instructions for those desiring to be included in the mailing list. Language in subpart (B)(3)(c) was added to clarify that a draft action or proposed action shall not become final if an adjudication hearing is timely requested. New requirements for public notices of public meetings in subpart (D)(8) include requirements for providing a statement of issues to be addressed at a public meeting if activities or operations that are the subject of the action are not included in the public notice. The new language in subpart (D)(9) was added to require a statement that the purpose of the public meeting was to obtain additional information which the director will consider prior to taking further action on the matter under consideration. Part (E) was added to OAC 3745–49–08 to include requirements for public notices of verified complaints. Language in part (F) was reorganized from previously approved language in OAC 3745–47–08 and subpart (F)(5) was added to clarify that all other public notices shall also include a statement specifying that written comments regarding the subject of the public notice may be submitted within thirty days or any longer period as specified by the Ohio EPA. Additional new language in this chapter includes subpart (G) which addresses cases where duplicate information is required in multiple notices, subpart (H) which specifies the requirements for notices of any action to modify an action of the director, and subpart (I) which specifies that all notices required by OAC 3745–49–07 may be in summary form. The remaining language in OAC 3745–49–08 includes reorganized rules from previously approved chapters. EPA finds that the minor revisions and new rules in this chapter are consistent with Federal provisions and requirements concerning public availability of information found in 40 CFR 51.161.

EPA has determined that the rules in OAC 3745–49 are consistent with EPA's PSD regulations and that approval of these amendments, revisions, and new rules is consistent with the requirements of CAA section 110(l) and will not adversely impact air quality. For these reasons, EPA is proposing to approve these rules into the Ohio SIP.

B. Significant Deterioration of Air Quality

EPA is also proposing to approve the removal of 40 CFR 52.1884 from the CFR. 40 CFR 52.1884 incorporates the provisions of the Federal PSD program into Ohio's state plan and only applies when the requirements of sections 160 through 165 of the CAA are not met. Since Ohio's PSD program was approved into the SIP on January 22, 2003 (68 FR 2909), this language is no longer applicable. The language contained in 40 CFR 52.1884 became obsolete when EPA delegated authority to Ohio EPA to implement the Federal PSD program.

EPA has determined that removal of this obsolete language would not interfere with any applicable requirement concerning attainment and reasonable further progress and that approval of this revision is consistent with the requirements of CAA section 110(l) and will not adversely impact air quality. Therefore, EPA is proposing to approve deletion of the obsolete language from the Ohio SIP.

III. Incorporation by Reference

In this action, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the following rules in Ohio Administrative Code Chapter 3745–49: Rules 3745–49–01, 3745–49–02, 3745–49–06, and 3745–49–08, effective April 2, 2012 and Rule 3745–49–07, effective July 27, 2019, discussed in Section II of this action. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

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

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

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide 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).

List of Subjects in 40 CFR Part 52

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

Dated: February 22, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2021–03984 Filed 2–25–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R08–OAR–2020–0021; FRL–10020–28–Region 8]

Approval and Promulgation of Implementation Plans; State of Utah; Logan, Utah-Idaho $PM_{2.5}$ Redesignation to Attainment, Maintenance Plan, and Rule Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the request by the State of Utah to redesignate the Logan, Utah-Idaho (UT-ID) nonattainment area (NAA) (''Logan NAA'') to attainment status for particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 microns ($PM_{2.5}$), and to approve related State Implementation Plan (SIP) revisions submitted by the State of Utah on November 5, 2019, and January 13, 2020. The redesignation request documents that the area has attained the 2006 $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS) and provides supporting information. The November 5, 2019 submittal includes revisions to Utah's R307–110–31 and R307–110–36 rules, concerning SIP Sections X.A and X.F. The January 13, 2020 submittal includes revisions to UAC R307–110–10 and the maintenance plan for the Logan NAA, which demonstrates attainment through the year 2035. The EPA is taking this action pursuant to the Clean Air Act (CAA or the Act). A separate EPA redesignation rulemaking will be conducted for the Idaho portion of the Logan NAA.

DATES: Written comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2020–0021, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* 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, 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.*

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.,* 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. Publicly available docket materials are available electronically in *www.regulations.gov.* To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

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

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

I. Background

A. Statutory and Regulatory Background for EPA's Regulation of $PM_{2.5}$

Under section 109 of the Act, the EPA has promulgated NAAQS for certain pollutants, including $PM_{2.5}$. Once the EPA promulgates a NAAQS, section 107 of the Act specifies a process for the designation of each area within a state, generally as either an attainment area (an area attaining the NAAQS) or as a NAA (an area not attaining the NAAQS, or that contributes to nonattainment of the NAAQS in a nearby area). For $PM_{2.5}$, certain areas have also been designated ''unclassifiable.'' These various designations, in turn, trigger certain state planning requirements.

For all areas, regardless of designation, section 110 of the Act requires that each state adopt and submit for EPA approval a plan to provide for implementation, maintenance, and enforcement of the NAAQS. This plan is commonly referred to as a SIP. Section 110 contains requirements that a SIP must meet to gain EPA approval.[1] For NAAs, SIPs must meet additional requirements in part D of Title I of the Act. Usually, SIPs include measures to control emissions of air pollutants from various sources, including stationary, mobile, and area sources. For example, a SIP may specify emission limits at power plants or other industrial sources.

On October 17, 2006 (71 FR 61144), the EPA revised the level of the 24-hour $PM_{2.5}$ NAAQS, lowering the primary and secondary standards from the 1997 standard of 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$. On

[1] EPA's approval of a SIP has several consequences. For example, after the EPA approves a SIP, the EPA and citizens may enforce the SIP's requirements in federal court under section 113 and section 304 of the Act; in other words, the EPA's approval of a SIP makes the SIP ''federally enforceable.'' Also, once the EPA has approved a SIP, a state cannot unilaterally change the federally enforceable version of the SIP. Instead, the state must first submit a SIP revision to the EPA and gain EPA's approval of that revision.

November 13, 2009 (74 FR 58688), the EPA designated three areas in Utah as Moderate NAAs for the 2006 24-hour $PM_{2.5}$ NAAQS of 35 μg/m³: The Salt Lake City, Provo, and Logan NAAs.

The Logan NAA is composed of portions of Cache County, UT and Franklin County, ID. The Cache Valley is an isolated, bowl-shaped valley measuring approximately 60 kilometers north to south and 20 kilometers east to west, almost entirely surrounded by mountain ranges. The Wellsville Mountains lie to the west, and on the east lie the Bear River Mountains; both are northern branches of the Wasatch Range. The State of Utah views topography as a barrier to air movement during the conditions that lead to elevated concentrations of fine particulates, and as the primary factor in determining where the population is located. The low-lying valleys that trap air during wintertime temperature inversions are also the regions where most people live. Additional information pertaining to the unique issues associated with the Logan NAA and studies completed on inversions can be found in the 9-factor analysis for Utah and Idaho in the November 13, 2009 (74 FR 58688) action, ''Air Quality Designations for the 2006 24-Hour Fine Particulate ($PM_{2.5}$) National Ambient Air Quality Standards.''

The EPA issued a rule in 2007 [2] regarding implementation of the 2006 24-hour $PM_{2.5}$ NAAQS for the NAA requirements specified in CAA title I, part D, subpart 1. Under subpart 1, Utah was required to submit an attainment plan for each area no later than three years from the date of nonattainment designation, addressing the requirements listed in section 172 of the Act. These plans needed to provide for the attainment of the $PM_{2.5}$ standards as expeditiously as practicable, but no later than five years from the date the areas were designated nonattainment.

In 2013, the U.S. Court of Appeals for the District of Columbia held that the EPA should have implemented the 2006 $PM_{2.5}$ 24-hour standards, as well as the other $PM_{2.5}$ NAAQS, based on both subpart 1 (sections 171–179B) and subpart 4 (sections 188–190) of CAA title I, part D.[3] Under subpart 4, all NAAs are initially classified as Moderate, and Moderate area attainment plans must address the requirements of subpart 4 as well as subpart 1. Additionally, subpart 4 sets a different SIP submittal due date and attainment year. For a Moderate area, the attainment SIP is due 18 months after designation and the attainment year is as expeditiously as practicable, but no later than the end of the sixth calendar year after designation. Therefore, as a result of the 2013 *NRDC* decision the State of Utah was required to submit an attainment plan addressing subpart 4 requirements in addition to subpart 1. EPA established the related deadlines in the Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particulate ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 24-hour $PM_{2.5}$ NAAQS rule, published on June 2, 2014 (79 FR 31566). This rule classified as Moderate the areas that were designated in 2009 as nonattainment and set the attainment SIP submittal due date for those areas at December 31, 2014. Additionally, this rule established the Moderate area attainment date as December 31, 2015.

Under subparts 1 and 4, the State was required to include the following elements in its Moderate attainment plan:

1. A comprehensive, accurate, current inventory of actual emissions from all sources of $PM_{2.5}$ and $PM_{2.5}$ precursors in the area. CAA section 172(c)(3).

2. Provisions to assure that reasonably available control measures (RACM), including reasonably available control technologies (RACT), for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors, shall be implemented no later than four years after the area is designated. CAA sections 172(c)(1) and 189(a)(1)(C).

3. A demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than the Moderate area attainment date. CAA section 188(c)(1).

4. Plan provisions that require reasonable further progress (RFP). CAA section 172(c)(2).

5. Quantitative milestones, which are to be achieved every three years until the area is redesignated to attainment, and which demonstrate RFP toward attainment by the applicable date. The State is required to submit, not later than 90 days after the date on which a milestone applicable to the area occurs, a demonstration that all measures in the approved SIP have been implemented and the milestone has been met. CAA section 189(c); 40 CFR 51.1013(b). These submissions are referred to as ''quantitative milestone reports.''

6. Provisions to assure that control requirements applicable to major stationary sources of $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the state demonstrates to the EPA's satisfaction that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area. CAA section 189(e).

7. Contingency measures to be implemented if the area fails to meet RFP or fails to attain by the applicable attainment date. CAA section 172(c)(9).

8. A revision to the Nonattainment New Source Review (NNSR) program to set the applicable ''major stationary source'' thresholds to 100 tons per year (tpy). CAA section 302(j). Moderate area 2006 24-hour $PM_{2.5}$ attainment plans must also satisfy the general requirements applicable to all SIP submissions under section 110 of the CAA, including the requirement to provide necessary assurances that the implementing agencies have adequate personnel, funding, and authority under CAA section 110(a)(2)(E), and the requirements concerning enforcement in CAA section 110(a)(2)(C).

On August 24, 2016 (81 FR 58010), the EPA finalized the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements rule (''$PM_{2.5}$ Requirements Rule''), which further addressed the 2013 *NRDC* decision. The final $PM_{2.5}$ Requirements Rule details how air agencies can meet the SIP requirements under subparts 1 and 4, such as general requirements for attainment plan due dates and attainment demonstrations; provisions for demonstrating RFP; quantitative milestones; contingency measures; NNSR permitting programs; and RACM (including RACT).

B. Utah's $PM_{2.5}$ Attainment and SIP Status

On September 8, 2017 (82 FR 42447), the EPA granted two one-year extensions to the Moderate attainment date for the 2006 24-hour $PM_{2.5}$ Logan NAA. The Moderate attainment date was originally December 15, 2015, and the granting of these two extensions changed the attainment date to December 31, 2017.

On October 19, 2018 (83 FR 52983), the EPA finalized a determination that the Logan $PM_{2.5}$ NAA had attained the 2006 primary and secondary 24-hour $PM_{2.5}$ NAAQS by the December 31, 2017 attainment date. Additionally, the EPA finalized a determination that the obligation to submit several remaining attainment-related SIP revisions arising from classification of the area as a Moderate NAA under subpart 4 of part D (of title I of the Act) for the 2006 24-hour $PM_{2.5}$ NAAQS is not applicable

[2] 72 FR 20586 (Apr. 25, 2007).

[3] *Nat. Res. Def. Council* v. *EPA,* 706 F.3d 428, 437 (D.C. Cir. 2013) (*NRDC*).

under the Clean Data Policy[4] for so long as the area continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. After this determination, the State of Utah was no longer obligated to submit an attainment demonstration, a demonstration that RACM (including RACT) shall be implemented no later than 4 years following the date of designation of the area, a RFP plan, quantitative milestones and quantitative milestone reports, and contingency measures. The State's remaining obligations include a baseline emissions inventory and a revised NNSR threshold. Also, for the Logan area to be redesignated to attainment, the State of Utah must still meet the statutory requirements for redesignation,[5] as described in the EPA's ''Procedures for Processing Requests to Redesignate Areas to Attainment'' guidance document.[6]

The suspension of planning requirements pursuant to 40 CFR 51.1015 does not preclude the State from submitting suspended elements of its Moderate area attainment plan, nor does it preclude the EPA from approving suspended elements, for the purpose of strengthening the SIP. Accordingly, the EPA approved portions of the Logan NAA SIP on October 24, 2018 and November 23, 2018. On October 24, 2018, the EPA determined that the 2017 quantitative milestone report for the Logan $PM_{2.5}$ NAA was adequate, which satisfied the quantitative milestone report requirement of CAA section 189(c) and 40 CFR 51.1013(b). The determination letter from the EPA Administrator to the Governor of Utah is in the docket for this action.

Finally, on November 23, 2018, the EPA approved portions of the Logan $PM_{2.5}$ SIP (83 FR 59315) contained in Utah Administrative Code (UAC) R307–110–10, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter. The portions of the SIP that were approved include: (1) The emission inventory (satisfying the inventory requirement of CAA section 172(c)(3)); (2) modeled attainment demonstration; (3) determination for Major Stationary Source RACT; (4) determination for On-Road Mobile Sources RACM; (5) the state's determination that the previously approved[7] Cache County Inspection and Maintenance (I/M) Program constituted additional RACM; (6) determination for Off-Road Mobile Sources RACM; and (7) 2015 Motor Vehicle Emission Budgets (MVEB). Additionally, R307–110–10 incorporates by reference (IBRs) Utah SIP Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.

On July 25, 2019 (84 FR 35832), the EPA approved revisions to R307–403, Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas. This rule covers the CAA's NNSR requirements for $PM_{2.5}$ NAAs. In Section II.B. below we briefly discuss this NNSR requirement and how the July 25, 2019 action addresses it as to the Logan NAA.

C. Redesignation Requests and Related Requirements

For a NAA to be redesignated to attainment, the following conditions in section 107(d)(3)(E) of the CAA must be met:

1. We must determine that the area has attained the NAAQS;
2. The applicable implementation plan for the area must be fully approved under section 110(k) of the Act;
3. We must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;
4. We must fully approve a maintenance plan for the area as meeting the requirements of CAA section 175A; and
5. The state containing the area must meet all requirements applicable to the area under section 110 and part D of the CAA.

In the Calcagni Memorandum the Agency explains how it assesses the adequacy of redesignation requests against the conditions listed above.

On January 13, 2020, the Governor of Utah submitted revisions to the SIP for R307–110–10, a maintenance plan for the Logan area (Utah SIP Section IX.A.28), and a request that the EPA redesignate this area to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS. R307–110–10 IBRs Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter; which formally incorporates the Logan 2006 24-hour $PM_{2.5}$ Maintenance Plan (located within the Utah SIP at Section IX.A.28) into Utah's State regulations. In Section II.C below, we discuss our review of the Utah Division of Air Quality (UDAQ) maintenance plan and redesignation request for the Logan 2006 24-hour $PM_{2.5}$ NAAs.

II. The EPA's Evaluation

A. Utah's SIP Revisions

When the Utah SIP is amended by the Utah Air Quality Board (UAQB), the amended sections must be incorporated into the Utah Air Quality Rules. Utah incorporates SIP sections into the State's rule R307–110. These rules are amended as needed to change the effective dates to match the UAQB approval date of various amendments to the Utah SIP. In this action we are proposing to approve submitted revisions to: (1) R307–110–10, which IBRs Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, and thus incorporates the Logan 2006 24-hour $PM_{2.5}$ maintenance plan into State regulations (located within the Utah SIP at Section IX.A.28); and (2) R307–110–31 and R307–110–36, which IBR Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, and Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County, which incorporate the general requirements and applicability of the I/M Programs in the State of Utah and the I/M Program of Cache County into the State regulations. Our evaluation of these revisions follows.

1. R307–110–10

Section R307–110–10 incorporates amendments to Utah SIP Section IX.A into State regulations, thereby making them effective as a matter of State law. This is a ministerial provision, which only revises the effective date within the rule to December 4, 2019 and does not itself include any SIP measures.

2. R307–110–31

Section R307–110–31 incorporates the amendments to Utah SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, into State rules, thereby making them effective as a matter of State law. This is a ministerial provision, which only revises the effective date within the rule to September 4, 2019 and does not itself include any control measures.

3. R307–110–36

Section R307–110–36 incorporates the amendments to Utah SIP Section X,

[4] In designated nonattainment areas where monitored data demonstrate that the NAAQS have been achieved, the EPA interprets the CAA to provide that some of its requirements as no longer applicable as long as air quality continues to meet the standard. This CAA interpretation is known as the Clean Data Policy. As relevant to $PM_{2.5}$ areas, this policy is reflected in EPA regulations at 40 CFR 51.1015.

[5] CAA Section 107(d)(3)(E).

[6] Memorandum from John Calcagni, Director, Air Quality Management Division (Sep. 4, 1992) (the Calcagni Memorandum; available at *https://www.epa.gov/sites/production/files/2016-03/documents/calcagni_memo_-_procedures_for_processing_requests_to_redesignate_areas_to_attainment_090492.pdf*).

[7] See 80 FR 54237 (Sep. 9, 2015).

Vehicle Inspection and Maintenance Program, Part F, Cache County, into State rules, thereby making them effective as a matter of State law. This is a ministerial provision, which only revises the effective date within the rule to September 4, 2019 and does not itself include any control measures.

4. Subsection X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability

The revisions to ''Part A, General Requirements and Applicability'' include additions to section ''1. General Requirements'' that address the following revisions to Utah Code Annotated (UCA) Section 41–6a–1642:

a. An amendment in 2013 to include the date that notice is required and the date the enactment, change, or repeal will take effect if a county legislative body enacts, changes, or repeals the local emissions compliance fee. Section 41–6a–1642 provides that for a county that is required to implement a new vehicle emissions I/M program, but for which no current federally approved SIP exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the UAQB, that is necessary to comply with federal law or attain or maintain any NAAQS. The section also establishes procedures and notice requirements for a county legislative body to establish or change the frequency of a vehicle emissions I/M program.

b. An amendment in 2017 to UCA Section 41–6a–1642 to allow a county that imposes a local emissions compliance fee to use revenue generated from the fee to promote programs to maintain a NAAQS. Section 41–6a–1642 was also amended to state that vehicles may not be denied registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or an EPA-approved vehicle emission modification.

c. An amendment in 2019 regarding ''Notification of Programmatic Changes.'' This requires that county legislative bodies consult with the Director of the UDAQ before their public comment process for any amendments to their I/M regulations or ordinances. Consultation is to include a written notice describing the proposed changes to the I/M program.

The revisions to Part A (General Requirements and Applicability) also included changes to section 3 (General Summary) that addressed minor wording clarifications to the subsections entitled ''*Out-of-state exemption*'' and ''*Vehicle inspection report.*''

We have evaluated the Governor's November 5, 2019 submittal of the above revisions to the Utah SIP Section X Part A and are proposing approval.

5. Subsection X, Vehicle Inspection and Maintenance Program, Part F, Cache County

Section X, Part F of the Utah SIP addresses requirements for the implementation of the motor vehicle I/M program in Cache County. Section X, Part F of the SIP contains three main components for the Cache County I/M program: (1) Language addressing applicability, a general description of the program, and the time frame for its implementation; (2) the Cache County Emission Inspection/Maintenance Program Ordinance 2018–15; and (3) the Bear River Health Department's (BRHD) Regulation 2013–04. We note that the Cache County Ordinance 2018–15 contains language that delegates the implementation of the Cache County I/M program to the BRHD.

a. Under the heading ''1. Applicability,'' the revisions to the Cache I/M program note that the Cache I/M program was approved by the EPA on October 9, 2015 (80 FR 54237), and that the I/M program has been fully implemented.

b. Under the heading ''2. Description of Cache I/M programs,'' the revisions to the Cache I/M program include:

(1) ''*Subject Fleet*'': The subject fleet for an I/M inspection was changed from 1969 and newer to 1996 and newer. This change reflects the County's revision to its I/M program to remove the Two Speed Idle (TSI) test for vehicles 1995 and older. Our proposed approval of this I/M program relaxation is discussed further below in section *vii.*

(2) ''*Test Frequency*'': This section was also revised to reflect that model year 1996 and newer vehicles are subject to a biennial I/M test. This revised language also shows the removal of a required I/M test for 1995 and older vehicles.

(3) ''*Test Equipment*'': This section was modified to remove the phrase ''Analyzer calibration specifications'' and replace it with ''Certified testing equipment.''

(4) ''*Test Procedures*'': This section was revised to remove the TSI test for 1995 and older vehicles and to remove the County's TSI test for 1996 to 2007 medium-duty vehicles and 2008 and newer heavy-duty vehicles. As noted above, we provide additional discussion on this I/M program relaxation in section *vii* below.

c. Under the heading ''3. I/M SIP Implementation,'' the revisions to the Cache I/M program involve the new language described below. This section notes that the I/M program ordinance, regulations, policies, procedures, and activities specified in the I/M SIP revision shall be implemented by January 1, 2021.

(1) The revisions to Cache County's Ordinance 2013–04 (Implementation of a Vehicle Emissions and Maintenance Program in Cache County) involved:

(a) Revisions to the table of contents that reflect the removal of the TSI test in 2021, and renumbering of subsequent subsections.

(b) Revisions to section 1.0 (Definitions) to remove several definitions and to modify and add several definitions.

(c) Revisions to section 2.0 (Purpose) to clarify that the ordinance complies with applicable federal requirements and with Cache County Code Chapter 10.20.

(d) Revisions to section 3.0 (Authority and Jurisdiction of the Department) to revise subsections to indicate the authority is as per Cache County Code Chapter 10.20 and its subdivisions.

(e) Revisions to section 4.0 (Powers and Duties) to remove unneeded references to Technical Bulletins and to include ''Certified Testing ''Equipment'' in place of ''testing equipment.''

(f) Revisions to section 5.0 (Scope) to remove the unneeded reference to Technical Bulletins.

(g) Revisions to section 6.0 (General Provisions) updating the applicability to vehicles registered in Cache County or principally operated there; adding references to Cache County Code Chapter 10.20 and its applicable subdivisions; updating the reference to UAC Section 41–6a–1642(10); revising the list of vehicles that are exempted from I/M testing; clarifying the required I/M testing station signs; and inserting a new ''Compliance Assurance List'' section 6.8 with its requirements.

(h) Revisions to section 7.0 (Permit Requirements of the Vehicle Emissions I/M Program Station) removed unneeded language relevant to TSI testing and adding language that a wireless internet connection may be required.

(i) Revisions to section 8.0 (Training and Certification of Inspectors) added ''Certified Testing Equipment'' where ''test equipment'' previously appeared. The revisions also removed unneeded language relevant to TSI testing and the unneeded requirement for a ''hands on'' test. The revisions added language in new section 8.4.3 that an emission inspection certificate would not be issued to an inspector applying in Cache County who has a revoked or suspended certificate in another county.

(j) Revisions to section 9.0 (Inspection Procedure) remove most of the inspection procedures from this section and place them instead in the revised Appendix D ''Test Procedures.'' In addition, language relating to the TSI test was removed and clarifying language referencing a ''Certified Emissions Inspector'' and ''Certified Testing Equipment'' has been added. Other revisions were made regarding ''Waivers,'' emissions related repairs, and language in the new section 9.6 regarding the exploration of new emission inspection technologies that would be vetted with, and approved by, Cache County, the State, and the EPA.

(k) Revisions to section 10.0 (Engine Switching) involve clarification of the term ''EPA policy'' by including the reference to specific EPA policies (*i.e.,* the EPA's March 1991 engine switching Fact Sheet and its September 1997 Memorandum 1a) and language clarifying the requirements that a vehicle with an engine that was switched meet the emission inspection requirements of Section 6.0.

(l) Revisions to section 1.0 (Specifications for Certified Testing Equipment) remove previously applicable requirements for calibration gases, gas calibration with leak checks, and warranty and maintenance requirements, as these provisions were only applicable to the TSI test.

(m) Revisions to section 12.0 (Quality Assurance) update references to ''Certified Testing Equipment.''

(n) Revisions to prior section 13.0 (Cutpoint Standards for Motor Vehicle Exhaust Gases) remove this section in its entirety, as it was only applicable to the TSI test.

(o) Revisions to renumbered section 13.0 (Disciplinary Penalties and Right to Appeal) renumber subsections and replace the term ''audit'' with ''inspection.''

(p) Revisions to renumbered section 14.0 (Penalty) involved the renumbering of the prior subsections to a new subsection 14.6 that states the Department shall request that the Utah Division of Motor Vehicles (DMV) revoke the registration of any vehicle that is unable to meet the required emissions standards or has not complied with the required emissions testing requirements of UAC Section 41–1a–110(6).

(q) Revisions to renumbered section 15.0 (Severability) only involve the renumbering of the section.

(r) Revisions to renumbered section 16.0 (Effective Date) involve the renumbering of the section and change from the prior effective date of May 27, 2015 to January 1, 2021.

(s) Revisions to Appendix A only remove the reference to the fee for a TSI test.

(t) Revisions to Appendix B remove Appendix B in its entirety as it related to motor vehicle emissions cut-points applicable to the TSI test. As the TSI test was removed from the ordinance, this prior Appendix B is no longer relevant and was removed. The Appendix is now titled ''Reserved.''

(u) Revisions to Appendix D (Test Procedures) involve the relocation of most of the On-Board Diagnostic (OBD) testing procedures to Appendix D that were previously located in section 9.0 (Inspection Procedure). Additional language, regarding the OBD test procedures, was included that clarifies, updates, and supplements the prior OBD test procedures language in the prior Appendix D. Terms were updated to refer to ''Certified Emissions Equipment'' and ''Certified Emissions Inspector.'' Provisions were added for a ''Compliance Assurance Inspection'' for a vehicle and a ''Referee Inspection'' at the County's I/M Technical Center for vehicles having difficulty with the OBD test, and also for when a vehicle owner believes the emission test done at an inspection station was not done correctly. The prior Appendix D test procedures for the TSI test were removed.

(v) Revisions to Appendix E (Certified Testing Equipment Standards) involved the removal of ''Technical Specifications and Calibration Gas'' from the Appendix title. All provisions and requirements for the TSI test were removed. Only the necessary provisions and requirements for the OBD test were retained and updated.

(w) Revisions to Appendix F (Waivers for Not Ready Vehicles) include clarifications to the provisions for the second and third tests, additional language regarding statements about the vehicle from the vehicle manufacturer's dealership repair station, and a new item number 6 addressing cost requirements for a waiver.

(x) Revision to Appendix G (Engine Switching) removing Appendix G in its entirety. The revised, allowable engine switching provisions were incorporated into section 10.0 above (Engine Switching).

We have evaluated the Governor's November 5, 2019 submittal of the above revisions to Utah SIP Section X Part F and are proposing approval.

(2) The revisions to Cache County's Ordinance 2013–04 (Implementation of a Vehicle Emissions and Maintenance Program in Cache County) for the removal of the TSI test in 2021.

In December 2018, the BRHD proposed to the Cache County Council to amend the Cache County vehicle emissions and maintenance program. The BRHD proposal was to discontinue the TSI test for vehicles 1995 and older due to a diminishing fleet of older light duty gasoline vehicles participating in the program, combined with increasing cost of maintaining the TSI testing equipment. The emission reductions benefit from these older vehicles was minimal compared to the resources required to operate the TSI test, and removal of the TSI test would not interfere with attainment and maintenance of the 2006 $PM_{2.5}$ 24-hour NAAQS.

The Cache County Council passed the proposal to discontinue the TSI program with an effective date of January 1, 2021. This effective date is reflected as part of the revisions to Ordinance 2013–04 discussed above. The TSI testing program covers light duty gasoline vehicles that are older than model year 1995 and was a component of the I/M control strategy used in the EPA-approved Logan $PM_{2.5}$ Nonattainment SIP (83 FR 59315; November 23, 2018).

The UDAQ, EPA Region 8, and the BRHD coordinated regarding this Cache County I/M program relaxation to ensure that the proposed I/M program changes do not interfere with state and federal air quality regulations, as required under provisions of section 110(l) of the CAA. CAA section 110(l) allows revisions to a SIP to be approved so long as they do not interfere with any applicable requirement concerning attainment and RFP or any other applicable requirement of this chapter of the CAA. To evaluate the removal of the TSI test, the State prepared a CAA section 110(l) demonstration, as provided in Appendix A of the maintenance plan, and submitted that demonstration with the Governor's November 5, 2019 submittal.

On January 13, 2020, the Governor of Utah submitted the Logan $PM_{2.5}$ maintenance plan, which contained the State's CAA section 110(l) demonstration for the removal of the I/M Program TSI biennial testing procedure for Cache County in 2021. Section 9 and Appendix A of the Logan $PM_{2.5}$ maintenance plan show there will be minimal changes to the overall on-road mobile source emissions inventory within the Logan $PM_{2.5}$ area. As noted in Table 3 below and detailed in Appendix A of the maintenance plan, overall mobile source emissions decrease from 2017 to 2021, through fleet turnover and Federal tailpipe standards. The state's demonstration considered on-road vehicle emissions

from 2021–2026, as 2026 is the dispersion-modeled midpoint of the maintenance demonstration, and the dispersion modeling for 2035, which is the last year of the maintenance plan. In addition, the CAA section 110(l) demonstration considered whether there would be interference with other NAAQS being monitored in Cache County.

The State concluded that the removal of the TSI test will not interfere with the ability of the Logan area to continue to attain the 2006 24-hour $PM_{2.5}$ NAAQS from 2017 through 2026 and in the last year of the maintenance plan, 2035. The State's analysis considered emissions credit assigned to the overall I/M program, including OBD and TSI test, within Cache County within the 2021–2026 period, and compared it to the emissions credit without the TSI program (OBD only). The mobile source emission estimates were based on meteorological conditions that occurred during three $PM_{2.5}$ episodes: January 1–12, 2011; December 7–19, 2013; and February 1–17, 2016. Inventory estimations were created at the county level representing an average January weekday. The emission estimates were based on the EPA-approved MOVES2014b (May 2017 version) emissions model.

In addition, the demonstration considered $PM_{2.5}$ ambient air quality monitoring data from the Smithfield, Cache County site and non-interference with the other five NAAQS. The State's full CAA section 110(l) demonstration is included in the Governor's November 1, 2019 submittal and is also provided in the docket to this action. The EPA's full review of the January 13, 2020 Logan $PM_{2.5}$ maintenance plan and redesignation request submission is in section B, ''What Requirements Must Be Followed for Redesignation to Attainment?'' below.

EPA agrees with the State's CAA 110(l) demonstration regarding the removal of the I/M TSI for Cache County in 2021, in particular the conclusion that the removal will not have an adverse impact on the overall on-road mobile source inventory within the Logan $PM_{2.5}$ area from 2017 to 2021 and through 2026. Further, the State's maintenance plan dispersion modeling for both 2026 and 2035 continues to show maintenance of the 2006 $PM_{2.5}$ 24-hour NAAQS even with this I/M program revision. In addition, the State has documented that the removal of the TSI test in 2021 will not impact the other NAAQS.[8]

Therefore, we are proposing to approve the removal of the TSI test component of the BRHD's Ordinance 2013–04 I/M program in 2021 for vehicles 1995 and older.

B. What requirements must be followed for redesignation to attainment?

For a NAA to be redesignated to attainment, the following conditions in section 107(d)(3)(E) of the CAA must be met:

1. We must determine that the area has attained the NAAQS;
2. The applicable implementation plan for the area must be fully approved under section 110(k) of the Act;
3. We must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable federal air pollutant control regulations and other permanent and enforceable reductions;
4. We must fully approve a maintenance plan for the area as meeting the requirements of CAA section 175A; and,
5. The State containing the area must meet all requirements applicable to the area under section 110 and part D of the CAA.

EPA has provided guidance on redesignation in the ''General Preamble,''[9] and has provided further guidance on processing redesignation requests in the following documents: (1) The Calcagni Memorandum; (2) ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and (3) ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994. These documents are included in the Docket for this proposed action.

On January 13, 2020, the Governor of Utah submitted revisions to the SIP for R307–110–10, a maintenance plan for the Logan area, and a request that the EPA redesignate the area to attainment for $PM_{2.5}$. Additionally, on November 5, 2019, the State of Utah submitted revisions to R307–110–31 (Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability), R307–110–36 (Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County), and revisions to SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability and revisions to SIP Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County. The prior section discusses Utah's revisions to R307–110–10, R307–110–31, R307–110–36, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, and Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County. The section below discusses how Utah's redesignation request and maintenance plan meet the requirements of the Act for redesignation of the Logan area to attainment for $PM_{2.5}$.

C. Do the redesignation request and maintenance plan meet CAA requirements?

1. Attainment of the 2006 24-Hour $PM_{2.5}$ NAAQS

To redesignate an area from nonattainment to attainment, the CAA requires the EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). On October 19, 2018, the EPA finalized a determination that the Logan NAA had attained the 2006 24-hour $PM_{2.5}$ NAAQS, based on quality-assured and certified ambient air quality monitoring data for the period of 2015–2017 (83 FR 52983). The monitoring data used as the basis for the Determination of Attainment under 188(b)(2) is provided in Table 1, below.

[8] January 13, 2020 Logan NAA $PM_{2.5}$ Redesignation Request Submittal; Section IX.A.28 Maintenance Plan; Appendix A.

[9] *See* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498, April 16, 1992.

TABLE 1—LOGAN NAA DESIGN VALUES FROM 2018 DETERMINATION OF ATTAINMENT UNDER 188(b)(2) [10]

Monitor	AQS site ID	98th percentile value (μg/m³)			2015–2017 design value
		2015	2016	2017	
Smithfield, UT	490050007	28.9	34.0	36.0	33
Franklin, ID	160410001	18.8	33.3	[a] 38.3	[a] 30

[a] This value includes 1 in 3 monitoring frequency from January 1–August 9, 2017, and daily monitoring frequency from August 10–December 31, 2017.

Whether an area has attainedthe 2006 24-hour $PM_{2.5}$ NAAQS is based upon measured air quality levels at each eligible monitoring site with a complete three-year period to produce a design value equal to or below 35 μg/m³. A state must demonstrate that an area has attained the 2006 24-hour $PM_{2.5}$ NAAQS through submittal of ambient air quality data from an ambient air monitoring network representing maximum $PM_{2.5}$ concentrations. The data must be quality-assured, quality-controlled, and certified in the EPA's Air Quality System (AQS), and it must show that the three-year average of valid $PM_{2.5}$ 98th percentile mass concentrations is equal to or below the 2006 24-hour $PM_{2.5}$ NAAQS (35 μg/m³), pursuant to 40 CFR 50.13. In making this showing, three consecutive years of complete air quality data must be used.

Between 2016 and 2019, Utah and Idaho operated at least one $PM_{2.5}$ monitor in each state of the Logan NAA. In 2017, Idaho operated two $PM_{2.5}$ monitors: Franklin, ID and Preston, ID. The Preston monitor did not begin operation until February 24, 2017, however, thus producing an incomplete first quarter for the monitoring year. Due to this incomplete quarter in 2017, the Preston monitor did not produce a valid design value for the 2017–2019 period. Despite this, EPA finds that it is appropriate to conclude that the area has indeed continued to attain the 2006 $PM_{2.5}$ NAAQS since the initial 2015–2017 period upon which we based our October 19, 2018, Determination of Attainment, based on uninterrupted attainment at the Smithfield, UT monitor. A review of concurrent monitoring data for the Smithfield, UT and Preston, ID monitors provided in Table 2, below, shows that the Smithfield site consistently monitors higher levels of $PM_{2.5}$ than the Preston site, indicating that Smithfield's location is more suitable to demonstrate maximum $PM_{2.5}$ concentrations in the Cache Valley. Utah and Idaho completed a memorandum of understanding (MOU) to collectively meet the monitoring requirements of 40 CFR part 58, appendix D in the Logan UT–ID metropolitan statistical area (MSA), allowing Idaho to rely on the Smithfield monitor in Utah as the highest concentration monitor in the MSA.

As part of the redesignation request for the Logan NAA, UDAQ submitted quality-assured, complete and valid ambient air quality data from the Smithfield monitoring site which demonstrates that the area has attained the 2006 24-hour $PM_{2.5}$ NAAQS.The EPA has reviewed the subsequent daily $PM_{2.5}$ ambient air monitoring data in the Logan NAA, consistent with the requirements at 40 CFR part 50, and recorded in the EPA's AQS quality assured, quality-controlled, and State certified data for the monitoring design value [11] periods of 2016–2018 and 2017–2019. This air quality data demonstrates that the Logan NAA continues to attain the 2006 24-hour $PM_{2.5}$ NAAQS. For the 2016–2018 3-year period, the Smithfield monitor produced a design value of 33 μg/m³.[12] The area's 24-hour $PM_{2.5}$ design values for the 2017–2019 3-year period are provided in Table 2.

TABLE 2—LOGAN NAA CURRENT $PM_{2.5}$ 98TH PERCENTILES AND DESIGN VALUES [13]

Monitor	Monitor AQS No.	98th percentile value (μg/m³)			Design value (3-year average)
		2017	2018	2019	
Smithfield	490050007	36.0	27.9	35.1	33
Preston	160410002	[a] 17.3	27.2	30.1	[b] NA

[a] The Preston monitor operated at a 1 in 3 monitoring frequency throughout 2017, and did not begin operation until February 24, 2017, making the first quarter incomplete for this monitor with less than 50% of data reported.

[b] Due to the incomplete first quarter in 2017, this design value does not meet validity requirements per 40 CFR part 50, appendix N, section 4.2(c)(i).

As Table 2 indicates, the Logan area has continued to attain the 2006 24-hour $PM_{2.5}$ NAAQS since the EPA issued its determination of attainment under 188(b)(2) for the area based on the 2015–2017 design values shown in Table 1 above. The EPA's review of the monitoring data for 2016–2018 and 2017–2019 supports the previous determination that the area has attained the 2006 24-hour $PM_{2.5}$ NAAQS and demonstrates that the area continues to attain the standard. Further information on $PM_{2.5}$ monitoring is presented in Subsections IX.A.28.b(1) of the Utah portion of the Logan maintenance plan. We have evaluated the ambient air quality data and have determined that the Logan 2006 24-hour $PM_{2.5}$ NAAQS NAA continues to attain the standard based on the available monitoring data.

A separate EPA redesignation rulemaking will be conducted for the Idaho portion of the Logan NAA.

[10] See 83 FR 52983, October 19, 2018.

[11] As defined in 40 CFR part 50, appendix N, section (1)(c).

[12] *See https://www.epa.gov/air-trends/air-quality-design-values#report.*

[13] The Preston monitor does not have a valid design value for the 2017–2019 three-year period because of an incomplete 2017 quarter 1 which cannot be substituted with quarter 1 data at the same monitor in 2018 or 2019 per 40 CFR part 50, appendix N, section 4.2(c)(i) because it has below 50% complete data for that quarter.

2. State Implementation Plan Approval

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

On February 25, 2016 (81 FR 9343), October 19, 2016 (81 FR 71988), October 2, 2019 (84 FR 52368), and February 26, 2020 (85 FR 10989) the EPA approved revisions to several area source rules and approved new rules for $PM_{2.5}$ NAAs into the Utah SIP, including the Logan $PM_{2.5}$ NAA.

On September 9, 2015 (80 FR 54237), the EPA finalized approval of SIP revisions to Utah's SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; Section X. Vehicle Inspection and Maintenance Program, Part F, Cache County; and Utah Rule R307–110–1, R307–110–31, and R307–110–36, which IBR the Utah SIP into the Utah Rules, IBRs Utah SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, and IBRs Utah SIP Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County, respectively. Additionally, the EPA is acting on revisions to R307–110–31, R307–110–36, Utah's SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, and on Section X. Vehicle Inspection and Maintenance Program, Part F, Cache County in this action. Our evaluation of these revisions is found in Section II.A.2, 3, 4, and 5 above.

Additionally, we completed a clean data determination (CDD) for the Logan $PM_{2.5}$ NAA on October 19, 2018 (83 FR 52983). With this final rule, the EPA suspended the obligation for Utah to make submissions to meet certain CAA requirements related to attainment of the NAAQS. These suspended CAA requirements are: (1) Attainment demonstration; (2) projected emissions inventory; (3) RACM/RACT; (4) RFP; (5) MVEB; (6) contingency measures; and (7) quantitative milestones.

On November 23, 2018 (83 FR 59315), the EPA approved portions of the Logan $PM_{2.5}$ SIP which were: The emissions inventory; modeled attainment demonstration; determination for Major Stationary Source RACT; determination for On-Road Mobile Sources RACM; determination for Cache County I/M Program as additional reasonable measures; determination for Off-Road Mobile Sources RACM; and the 2015 MVEB.

On July 25, 2019 (84 FR 35831), the EPA approved revisions to UAC R307–403 (Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas) into the SIP.

We have evaluated the actions above and have determined that through these actions, the State of Utah has a fully approved Logan $PM_{2.5}$ SIP under section 110(k).

3. Improvement in Air Quality Due to Permanent and Enforceable Measures.

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable federal air pollutant control regulations, and other permanent and enforceable reductions.

Utah has implemented multiple area source rules in the Logan NAA. On February 25, 2016 (81 FR 9343), October 19, 2016 (81 FR 71988), October 2, 2019 (84 FR 52368), and February 26, 2020 (85 FR 10989) the EPA approved revisions to several area source rules and approved new rules for $PM_{2.5}$ NAAs into the Utah SIP, including the Logan $PM_{2.5}$ NAA.

On September 9, 2015 (80 FR 54237), the EPA finalized approval of SIP revisions to Utah's SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; Section X. Vehicle Inspection and Maintenance Program, Part F, Cache County; and to Utah Rule R307–110–1, R307–110–31, and R307–110–36, which IBR the Utah SIP into the Utah Rules, IBRs Utah SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, and IBRs Utah SIP Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County, respectively. Additionally, the EPA is acting on revisions to R307–110–31; R307–110–36; Utah's SIP Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability; and on Section X. Vehicle Inspection and Maintenance Program, Part F, Cache County. Our evaluation of these revisions is found in Section II.A.2, 3, 4, and 5 above.

Additionally, within section IX.A.28.b.3. of the Logan $PM_{2.5}$ maintenance plan, UDAQ provides an assessment of the ambient air quality data collected at the Logan $PM_{2.5}$ monitor from the year monitoring began (2000) to 2018 (the last year of valid data before the maintenance plan was submitted), which shows an observable decrease in the monitored $PM_{2.5}$. UDAQ observed both the 98th percentile average of the 24-hour data in the Logan $PM_{2.5}$ NAA as well as the annual arithmetic mean which assisted in understanding the trends. The Logan $PM_{2.5}$ NAA was only designated nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS; however, it is useful information in showing the decrease in emissions. The cold-pool temperature inversions during the winter months, which drive and trap secondary $PM_{2.5}$, vary in strength and duration from year to year, and the $PM_{2.5}$ concentrations measured during these periods reflect this variability more than they reflect the gradual changes in emissions of direct $PM_{2.5}$ and the $PM_{2.5}$ precursors. This variability is evident in UDAQ's assessment, but when a line is fit through the 24-hour data, a trend is seen going downward and indicates improvement at 1 $\mu g/m^3$ per year. This episodic variability is reduced when reviewing the annual mean values of $PM_{2.5}$ concentrations from 2000–2018. This annual mean includes all the high values identified as the 98th percentiles, still the trend is downward. UDAQ fitted a line through the annual mean $PM_{2.5}$ concentration data collected at the Logan $PM_{2.5}$ NAA which revealed a decreasing trend and indicates an improvement of 5.6 $\mu g/m^3$ over this 18-year span.

We have evaluated the various state and federal control measures, historical emissions inventories, and the emission trends of the $PM_{2.5}$ 98th percentiles and annual $PM_{2.5}$ mean concentrations presented by UDAQ from 2000 to 2018, and have determined that the improvement in air quality in the Logan NAA has resulted from emission reductions that are permanent and enforceable.

4. Fully Approved Maintenance Plan Under Section 175A of the Act

Section 107(d)(3)(E) of the Act requires that for a NAA to be redesignated to attainment, we must fully approve a maintenance plan meeting the requirements of section 175A of the Act. The plan must demonstrate continued attainment of the relevant NAAQS in the area for at least 10 years after our approval of the redesignation. Eight years after our approval of a redesignation, the state must submit a revised maintenance plan demonstrating attainment for the 10 years following the initial 10-year period. The maintenance plan must also contain a contingency plan to ensure prompt correction of any violation of

the NAAQS.[14] The EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble and the Calcagni Memorandum referenced above. The Calcagni Memorandum outlines five core elements necessary to ensure maintenance of the relevant NAAQS in an area seeking redesignation from nonattainment to attainment. Those elements, as well as guidelines for subsequent maintenance plan revisions, are explained in detail below.

a. Attainment Inventory

$PM_{2.5}$ maintenance plans should include an attainment emission inventory to identify the level of emissions in the area that is sufficient to maintain the NAAQS. An emissions inventory was developed and submitted with the Logan $PM_{2.5}$ maintenance plan NAA on January 13, 2020. This submittal contains a base year of 2017, interim-year projected inventory for 2026, and a projected maintenance inventory of 2035. The emissions in the inventories include sources of $PM_{2.5}$ and $PM_{2.5}$ precursor emissions within a regional area called a modeling domain. UDAQ modeled two different domain sizes; 4 km coarse and 1.33 km fine.[15] The 4 km coarse domain covered the entire State of Utah, a significant portion of Eastern Nevada (including Las Vegas), and smaller portions of Idaho, Wyoming, Colorado, and Arizona. Since the coarse domain was so large, the 1.33 km fine domain or a ''core area'' within this domain was identified wherein a higher degree of spatial resolution was used in the model. Within this core area (which includes Weber, Davis, Salt Lake, Utah, Box Elder, Tooele, Cache, and Franklin, ID Counties), SIP-specific inventories were prepared to include seasonal adjustments and forecasting to represent each of the projection years. In the bordering region, the 2014 National Emissions Inventory (NEI) was used in the analysis. Four general categories of sources were included in these inventories: point sources; area sources; on-road mobile sources; and non-road mobile sources.

For each of these source categories, the pollutants inventoried were $PM_{2.5}$, sulfur dioxide (SO_2), NO_X, VOC, and ammonia (NH_3). More detailed descriptions of the 2017 base-year inventory and the 2026 and 2035 projection inventories can be found in section IX.A.28.c., Logan Maintenance Plan, subsection (2) Attainment Inventory, and within the State of Utah's technical support document (TSD). Utah's submittal contains detailed emission inventory information prepared in accordance with EPA emission inventory guidance.[16] Summaries of emission figures from the 2017 base year and the projected inventories are in Table 3 below.

TABLE 3—LOGAN NAA; ACTUAL EMISSIONS FROM 2017 AND EMISSION PROJECTIONS FOR 2026 AND 2035

[Tons per day (tpd)]

Year	Source category	$PM_{2.5}$ filterable	$PM_{2.5}$ condensible	$PM_{2.5}$ total	NO_X	VOC	NH_3	SO_2
2017 Baseline	Area Sources	0.56	0.05	0.6	0.92	3.8	13.48	0.03
	Non-Road			0.1	0.79	2.19	0	0
	Point Sources	0	0	0	0	0	0	0
	Mobile Sources			0.23	3.76	2.46	0.1	0.02
	2017 Total			0.93	5.47	8.45	13.58	0.05
2026	Area Sources	0.60	0.04	0.64	0.7	3.88	13.27	0.03
	Non-Road			0.06	0.59	1.27	0	0
	Point Sources	0	0	0	0	0	0	0
	Mobile Sources			0.13	1.52	1.39	0.09	0.01
	2026 Total			0.83	2.81	6.54	13.36	0.04
2035	Area Sources	0.63	0.04	0.67	0.71	4.29	13.11	0.03
	Non-Road			0.05	0.57	1.04	0	0
	Point Sources	0	0	0	0	0	0	0
	Mobile Sources			0.19	1.76	1.91	0.1	0.01
	2035 Total			0.91	3.04	7.24	13.21	0.04

Based on our review, we have determined that Utah prepared an adequate attainment inventory for the Logan $PM_{2.5}$ NAA.

b. Maintenance Demonstration

The Calcagni Memorandum states that where modeling was relied on to demonstrate maintenance, the plan must contain a summary of the air quality concentrations expected to result from the application of the control strategies. Also, the plan should identify and describe the dispersion model or other air quality model used to project ambient concentrations. The maintenance demonstration for the Logan area used a regional photochemical model.

Before the development of the Logan $PM_{2.5}$ maintenance plan, UDAQ conducted a technical analysis to support the development of the Serious SIP for the Salt Lake City, UT $PM_{2.5}$ NAA. The analysis included preparation of emissions inventories and meteorological data, and the evaluation and application of a regional photochemical model. Part of this process included selection of the episode that most accurately replicates the photochemical formation of ambient $PM_{2.5}$ during a persistent cold air pool episode in the airshed. For the Logan maintenance plan, UDAQ used the same episode that was used for the Serious SIP modeling.

The Comprehensive Air Quality Model with Extensions (CAMx) version 6.30 for air quality modeling was used for the Logan maintenance plan, with enhancements including snow chemistry and topographical and surface albedo refinements. The emissions processing model that UDAQ used in conjunction with CAMx was the

[14] CAA sections 175A(b) and (d).

[15] *See* January 13, 2020 State of Utah submittal for Logan $PM_{2.5}$ Maintenance Plan; Figure IX.A.28.4, CAMx Photochemical Modeling Domain in Two-Way Nested Configuration.

[16] ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' EPA–454/B–17–002 (May 2017), available at *https://www.epa.gov/sites/production/files/2017-07/documents/ei_guidance_may_2017_final_rev.pdf* .

Sparse Matrix Operator Kernel Emissions Modeling System (SMOKE) version 3.6.5. Meteorological inputs were derived using the Weather Research and Forecasting (WRF) Advanced Research WRF (WRF–ARW) model to prepare meteorological datasets for UDAQ to use with the photochemical model. UDAQ found that WRF–ARW was reasonably able to replicate the vertical temperature structure of the boundary layer (*i.e.,* the winter temperature inversion in the NAA), but that WRF–ARW had difficulty reproducing the inversion when the inversion was shallow and strong (*e.g.,* an 8-degree temperature increase over 100 vertical meters). UDAQ provides additional information on these models in their TSD.[17]

Part of the modeling exercise that UDAQ completed for the Logan maintenance plan was to test whether the model could successfully replicate the $PM_{2.5}$ mass and composition that were observed during prior episode(s) of elevated $PM_{2.5}$ concentrations. After consulting EPA guidance,[18] UDAQ selected three episodes: (1) January 1–10, 2011; (2) December 7–19, 2013; and (3) February 1–16, 2016. UDAQ examined the $PM_{2.5}$ model performance for these three episodes and concluded that the CAMx performed the best when using the January 2011 WRF–ARW output. UDAQ further confirmed this determination by using a linear regression analysis showing that modeled and measured $PM_{2.5}$ at the Logan monitoring station was strongly correlated during the January 2011 episode ($R^2 = 0.72$) compared to the other episodes ($R^2 = 0.18$ for the December 2013 episode, and $R^2 = 0.39$ for the February 2016 episode). A comprehensive discussion of the meteorological model performance for all three of these episodes can be found in the TSD submitted by UDAQ.

UDAQ compared the 24-hour modeled and observed $PM_{2.5}$ during the January 1–10, 2011 episode at the Logan monitoring station, and the results showed that overall, the model captured the temporal variation in $PM_{2.5}$ well. This temporal variation included a gradual increase in $PM_{2.5}$ concentration and its transition back to low levels. However, UDAQ discovered that despite the generally good representation of the temporal behavior of $PM_{2.5}$, the concentrations were, generally, lower in the model on January 4–9, 2011. This was partly related to the meteorological model performance on these days where temperature was overestimated by 5 to 15 degrees Celsius, and thick, low-level clouds were simulated on January 5, 2011, while clouds were not observed for this day.[19] Due to this low-level cloud simulation produced from the model, an increasingly deep sub-cloud mixing layer in the model was observed compared to reality, which led to an underprediction in modeled $PM_{2.5}$ concentrations. A more detailed analysis of this episode can be found in the Utah TSD.

Overall, UDAQ concluded that the model performance of replicating the buildup and clear out of $PM_{2.5}$ in the Logan NAA was good, and thus, the model could be used for air quality planning purposes.

With acceptable model performance, the model can be utilized to make future-year attainment projections. For each future year, an attainment projection is made by calculating a concentration termed the Future Design Value (FDV). This calculation is made for each monitor included in the analysis, then compared to the NAAQS (35 μg/m³). An FDV below the NAAQS at every monitor in the NAA would demonstrate attainment for the area in that specific future year. A maintenance plan must demonstrate continued attainment of the NAAQS for a span of ten years. Since this ten-year span is measured from when the EPA takes final action on the maintenance plan, the exact ten-year date cannot be known before the plan is submitted. To be conservative, UDAQ projected an attainment date of 2035, which is fifteen years after Utah submitted the Logan maintenance plan. Additionally, UDAQ modeled a ''spot-check'' assessment of 2026.

In making future-year projections, the output from the CAMx model is not considered the final answer; rather, the model is used in a relative sense. In doing this, a comparison is made using the predicted concentrations for both the year in question and a pre-selected base-year, which is 2017. This comparison results in a Relative Response Factor (RRF). An RRF greater than one indicates that according to the model, the predicted $PM_{2.5}$ level is greater in the future year than in the 2017 base year, which typically is a result of increased emissions in the future year associated with projected population growth. (Additional discussion of the RRF can be found in the maintenance plan and the TSD submitted by UDAQ.) The FDV is calculated by multiplying the BDV by the RRF. FDV's are compared to the NAAQs in order to determine whether attainment is predicted at each monitoring location. Table 4 below provides FDV results for the Smithfield monitor and projection year and shows that no FDV exceeds the NAAQS. Therefore, continued attainment is demonstrated in the Logan NAA.

TABLE 4—BASELINE DESIGN VALUE, RELATIVE RESPONSE FACTORS, AND FUTURE DESIGN VALUES FOR ALL MONITORS AND FUTURE PROJECTION YEARS[20]

Monitor	2016–2018 BDV	2026 RRF	2026 FDV	2035 RRF	2035 FDV
Smithfield	32.6	0.86	28.0	0.87	28.2

According to the Calcagni memorandum, any assumptions concerning emission rates must reflect permanent, enforceable measures. A state cannot take credit in the maintenance demonstration for reductions unless there are regulations in place requiring those reductions, or the reductions are otherwise shown to be permanent. States are expected to maintain implemented control strategies despite redesignation to attainment, unless measures that achieve equivalent reductions are approved into the SIP. Emission reductions from source shutdowns can be considered permanent and enforceable to the extent that those shutdowns have been

[17] January 13, 2020 Logan $PM_{2.5}$ Redesignation Request/Maintenance Plan TSD, Section 4.e Meteorological Modeling.

[18] Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, $PM_{2.5}$, and Regional Haze, EPA454/B–07–002 (Apr. 2007).

[19] $PM_{2.5}$ State Implementation Plan Meteorological Modeling; Prepared by Department of Atmospheric Sciences, University of Utah for UDAQ.

[20] These values include additional emissions added to the CMPO MVEB from the safety margin. The safety margin is discussed further in Section D below. Units of Design Values are μg/m³, while RRF's are dimensionless.

reflected in the SIP and all applicable permits have been modified accordingly.

As part of the Moderate $PM_{2.5}$ SIPs, 24 area source rules were either introduced or augmented by UDAQ to control $PM_{2.5}$ and $PM_{2.5}$ precursors. On February 25, 2016 (81 FR 9343), October 19, 2016 (81 FR 71988), October 2, 2019 (84 FR 52368), and February 26, 2020 (85 FR 10989), the EPA acted on area source rules for the Logan $PM_{2.5}$ NAA. There are no changes to these area source rules with this action.

With respect to the part of Franklin County, ID that is included in the Logan NAA, UDAQ provided general information on Idaho's Moderate $PM_{2.5}$ SIP and what EPA's Region 10 office had acted on for control measures. On January 4, 2017 (82 FR 729) and on March 25, 2014 (79 FR 16203), the EPA approved the residential woodstove curtailment program/change-out program and the road sanding agreements, respectively, as voluntary measures. Additional information on Idaho's SIP will be available when EPA's Region 10 office acts on Idaho's portion of the Logan maintenance plan.

Based on the information described above and in our TSD, the EPA proposes to find that Utah has adequately demonstrated that the Logan area will maintain the 2006 24-hour $PM_{2.5}$ NAAQS for the next fifteen years.

c. Monitoring Network

Once a NAA has been redesignated to attainment, the state must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. Accordingly, the maintenance plan should contain provisions for continued operation of air quality monitors. As described in the maintenance plan, Utah will continue to maintain and operate a $PM_{2.5}$ ambient monitoring network within the Logan $PM_{2.5}$ area in accordance with 40 CFR part 58 and the Utah SIP. We approve these sites annually, and any future change would require discussion and approval from the EPA. In its January 13, 2020 submittal, Utah commits to continue to maintain an ambient monitoring network for $PM_{2.5}$ in the Logan area, in accordance with 40 CFR part 58 and the Utah SIP.

d. Verification of Continued Attainment

Utah's maintenance plan submittal for the Logan area must indicate how the State will track the progress of the maintenance plan. This is necessary because the emissions projections made for the maintenance demonstrations depend on assumptions of point and area source growth. In Section IX.A.28.c.(7), Utah commits to track and document measured mobile source parameters (*e.g.,* vehicle miles traveled, congestion, fleet mix) and changes in new and modified stationary source permits. If these and the resulting emissions change significantly over time, the State will perform appropriate studies to determine: (1) Whether additional and/or re-sited monitors are necessary; and (2) whether mobile and stationary source emission projections are on target.

e. Contingency Plan

Section 175A(d) of the Act requires that a maintenance plan also include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. For the maintenance plan to be approved under section 175A, a state is not required to have fully adopted contingency measures that will take effect without further action by the state. However, the contingency plan is an enforceable part of the SIP and should ensure that contingency measures are adopted expeditiously once they are triggered. The plan should discuss the measures to be adopted and a schedule and procedure for adoption and implementation. The contingency plan must require that the state will implement all measures in the Part D nonattainment plan for the area before redesignation. The state should also identify the specific indicators, or triggers, that will be used to determine when the contingency plan will be implemented.

As stated in Section IX.A.28.c.(8) of the Logan maintenance plan, triggering the contingency plan does not automatically require a revision to the SIP, nor does it necessarily mean the area will be reclassified to nonattainment. Instead, Utah will normally have an appropriate timeframe to correct the potential violation by implementing one or more adopted contingency measures. If violations continue to occur, additional contingency measures will be implemented until the violations are corrected.

Upon monitoring a potential violation of the 2006 24-hour $PM_{2.5}$ NAAQS, including exceedances flagged as exceptional events but not concurred with by the EPA, the State will identify a means of corrective action within six months after a potential violation. Utah will require implementation of the corrective action no later than one year after the violation is confirmed, and any contingency measures adopted and implemented will become part of the next revised maintenance plan submitted for EPA approval.

The Logan maintenance plan list of contingency measures includes: (1) Reinstate TSI test portion of the Cache County I/M Program; (2) Measures to address emissions from residential wood combustion (*i.e.,* emissions from fireplaces under the existing R307–302 rule), including re-evaluating the thresholds at which red or yellow burn days are triggered; (3) Measures to address fugitive dust from area sources; and (4) Additional measures to address other $PM_{2.5}$ sources identified in the emissions inventory, such as on-road vehicles, and non-road vehicles and engines.

Based on the above, we propose to find that the contingency measures provided in the Logan $PM_{2.5}$ maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

f. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the Act, Utah is required to submit a revision to the maintenance plan eight years after the redesignation of the Logan area to attainment for $PM_{2.5}$. This revision is to provide for maintenance of the NAAQS for an additional ten years following the first ten-year period. In the Logan maintenance plan, Utah committed to submit a revised maintenance plan eight years after the approval of the redesignation request and maintenance plan.

5. Meeting Applicable Requirements of Section 110 and Part D of the Act

In order for an area to be redesignated to attainment, section 107(d)(3)(E) provides that it must have met all applicable requirements of section 110 and part D of the Act. We interpret this to mean that, for a redesignation request to be approved, Utah must have met all requirements that applied to the subject area as of the time of submitting a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

a. Section 110 Requirements

Section 110(a)(2) contains general requirements for attainment plans. For purposes of redesignation, the Utah SIP was reviewed to ensure that all applicable requirements under the amended Act were satisfied. On September 21, 2010, the State submitted an Infrastructure SIP to the EPA demonstrating compliance with the

requirements of section 110 that are applicable to the 2006 24-hour $PM_{2.5}$ NAAQS. We approved this submittal on November 25, 2013 (78 FR 63883), for all section 110 requirements applicable to redesignation.

b. Part D Requirements

Before a $PM_{2.5}$ NAA may be redesignated to attainment, a state must have fulfilled the applicable requirements of part D. Subpart 1 of part D establishes general requirements applicable to all NAAs, while subpart 4 of part D establishes specific requirements applicable to $PM_{10}/PM_{2.5}$ NAAs. The $PM_{2.5}$ Requirements Rule provides that the applicable requirements of CAA section 172 are 172(c)(3) (emissions inventory), 172(c)(5) (NSR permitting program), 172(c)(7) (the section 110(a)(2) air quality monitoring requirements), and 172(c)(9) (contingency measures). Also, as explained in the Calcagni Memorandum, we interpret the requirements of section 172(c)(2) (RFP) and 172(c)(6) (other measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(8) (equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

The requirements of section 172(c) and 189(a) regarding attainment of the 2006 24-hour $PM_{2.5}$ NAAQS, and the requirements of section 172(c) regarding RFP, imposition of RACM, the adoption of contingency measures, and the submission of an emission inventory, have been satisfied through our February 25, 2016 (81 FR 9343), October 19, 2016 (81 FR 71988), October 19, 2018 (83 FR 52983), November 23, 2018 (83 FR 59315), October 2, 2019 (84 FR 52368), and February 26, 2020 (85 FR 10989) actions approving portions of the Moderate $PM_{2.5}$ Logan SIP and CDD. The CDD suspended Utah's obligation to make a SIP submission, or supplement, for attainment-related requirements including an attainment demonstration, RACM/RACT, RFP, contingency measures, and milestone reports.

We approved the requirements of the part D NNSR permit program for Utah on July 25, 2019 (84 FR 35831). Once the Logan area is redesignated to attainment, the prevention of significant deterioration (PSD) requirements of part C of the Act will apply. We must ensure that the State has made any needed modifications to its PSD regulations so that Utah's PSD regulations will apply in the Logan area after redesignation. Utah's PSD regulations, R307–405 Permits: Major Sources in Attainment or Unclassified Areas (PSD), which we approved as meeting all applicable federal requirements on July 15, 2011 (76 FR 41712) and January 29, 2016 (81 FR 4957), apply to any area designated unclassifiable or attainment, and thus will become fully effective in the Logan area upon redesignation of the areas to attainment.

D. Have the transportation conformity requirements been met?

(i) Requirements for Transportation Conformity and Motor Vehicle Emissions Budgets (MVEB)

Transportation conformity is required by section 176(c) of the CAA. The EPA's conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. To effectuate its purpose, the EPA's conformity rule requires a demonstration that emissions from a Metropolitan Planning Organization's (MPO) Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP), involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval, are consistent with the MVEB(s) contained in a control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). An MVEB is defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance area. Further information concerning the EPA's interpretations regarding MVEBs can be found in the preamble to the EPA's November 24, 1993, transportation conformity rule.[21]

The EPA notes that a $PM_{2.5}$ maintenance plan should identify MVEBs for direct $PM_{2.5}$, NO_X and all other $PM_{2.5}$ precursors whose on-road mobile source emissions are determined to significantly contribute to $PM_{2.5}$ levels in the area. We note that for the Logan $PM_{2.5}$ maintenance plan SIP revision, the UDAQ also identified VOCs as a precursor to the formation of $PM_{2.5}$ in the Logan $PM_{2.5}$ area. For direct $PM_{2.5}$ SIP MVEBs, the MVEB should include direct $PM_{2.5}$ motor vehicle emissions from tailpipes, brake wear, and tire wear. In addition, a state must also consider whether re-entrained road dust is a significant contributor and should be included in the direct $PM_{2.5}$ MVEB.[22] With respect to this requirement, the EPA reviewed information, data, and an analysis from the UDAQ that sufficiently documented that re-entrained road dust emissions were negligible and meet the criteria of 40 CFR 93.102(b)(3) for not needing to be included in the direct $PM_{2.5}$ MVEB. The EPA concurred with the State's analysis in an email dated July 20, 2011 to UDAQ.[23]

(ii) MVEBs Identified in the Logan $PM_{2.5}$ Maintenance Plan SIP

Utah's Logan $PM_{2.5}$ maintenance plan SIP revision was submitted to meet the requirements of CAA section 175A and relevant EPA guidance.[24] The State's maintenance plan specified the maximum mobile source emissions of $PM_{2.5}$, NO_X and VOC allowed in the final maintenance year, which is 2035. These mobile source emissions were initially identified by the State as the maintenance plan's MVEBs. However, through additional sensitivity dispersion modeling, the State was able to demonstrate that for 2035, additional mobile sources emissions could be included such that the Logan area could continue to demonstrate maintenance. These additional direct $PM_{2.5}$, NO_X, and VOC mobile source emissions were then identified as a ''safety margin'' [25] and were then added to the initial MVEBs to arrive at the final MVEBs. This process of identifying an additional ''safety margin'' was correctly followed by the UDAQ and is allowed by 40 CFR 93.124(a). The derivation of the MVEBs, with a ''safety margin,'' is described in Section 4 ''Mobile Source Budget for Purposes of Conformity'' of the maintenance plan and Section ''3.e. On-road Mobile Baseline and Projection Inventories, ii. On-Road MVEB Derivation'' of the TSD. As presented in Table IX.A.28.9 of the maintenance plan, the final 2035 MVEBs were 0.2 tpd direct $PM_{2.5}$, 2.02 tpd NO_X, and 2.18 tpd VOCs.

We note that 40 CFR 93.118(b)(2)(i) indicates that for maintenance plans that do not identify MVEBs for any other year than the last year of the

[21] 58 FR 62193–62196.

[22] 40 CFR 93.102(b) and 93.122(f); *see also* conformity rule preamble at 69 FR 40004, 40031–40036 (July 1, 2004).

[23] ''$PM_{2.5}$ Re-entrained Road Dust—Utah Request for Deletion from $PM_{2.5}$ Motor Vehicle Emissions Budget (MVEB): EPA Concurrence'' dated July 20, 2011 (included in docket for this action).

[24] 57 FR 13498, April 16, 1992.

[25] 40 CFR 93.101.

maintenance plan, the demonstration of consistency with the MVEBs by the applicable MPO must be accompanied by a qualitative finding that there are no factors that would cause or contribute to a new violation or exacerbate an existing violation in the years before the last year of the maintenance plan.

(iii) MVEBs Trading, for Purposes of Demonstrating Transportation Conformity, in the Logan $PM_{2.5}$ Maintenance Area

The EPA's transportation conformity rule allows for trading between the direct $PM_{2.5}$ and NO_X and VOC precursor MVEBs where the SIP establishes an appropriate mechanism for such trades.[26] The basis for the trading mechanism is the maintenance plan's dispersion modeling demonstration for 2035, which established the relative contribution of the NO_X and VOC precursor pollutants.

As discussed in Section 4(a)(ii) (''Trading Ratios for Transportation Conformity'') of the maintenance plan, the State established a MVEB trading mechanism to allow for future increases in on-road mobile sources direct $PM_{2.5}$ emissions to be offset by future decreases in NO_X precursor emissions from on-road mobile sources. This ratio was developed from data from the air quality maintenance plan's dispersion modeling. Section 4(a)(ii) of the maintenance plan and Section 6 of the maintenance plan's TSD provide the following modeling-derived trading ratio: Future increases in on-road mobile sources direct $PM_{2.5}$ emissions may be offset with future decreases in NO_X emissions from on-road mobile sources at a NO_X to $PM_{2.5}$ ratio of 3.4 to 1.

The maintenance plan also notes that this trading mechanism will only be used by the Cache MPO for transportation conformity determination analyses for years after 2035. The maintenance plan further notes that to ensure that the trading mechanism does not impact the ability to meet the NO_X budget, the NO_X emission reductions available to supplement the direct $PM_{2.5}$ MVEB will only be those remaining after the 2035 NO_X MVEB has been met. The maintenance plan further articulates that clear documentation of the calculations used in the MVEB trading must be included in the conformity determination analysis as prepared by the Cache MPO.

[26] 40 CFR 93.124(b).

(iv) EPA's Evaluation of Mobile Source Revisions

The EPA has evaluated the Logan $PM_{2.5}$ maintenance plan's emission inventories and maintenance demonstration modeling as described in the sections above. Based on our evaluation, we have determined that the direct $PM_{2.5}$, NO_X, and VOC MVEBs are appropriately derived from the maintenance plan and are acceptable. We have also evaluated the description and derivation of the MVEB NO_X trading mechanism and the supporting data from the maintenance plan's maintenance demonstration modeling information and TSD and find it acceptable. Therefore, we are proposing to approve the Logan UT–ID $PM_{2.5}$ maintenance plan's 2035 MVEBs of direct $PM_{2.5}$ of 0.2 tpd, NO_X of 2.02 tpd, and VOC of 2.18 tpd. In addition, we are proposing to approve the NO_X to direct $PM_{2.5}$ MVEB trading mechanism as described above and documented in Section 4(a)(ii) of the maintenance plan.

E. Did Utah follow the proper procedures for adopting this action?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The Act also requires states to observe certain procedural requirements in developing implementation plans and plan revisions for submission. Section 110(a)(2) of the Act provides that each implementation plan submitted by a state must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by the state after reasonable notice and public hearing.

We also must determine whether a submittal is complete and therefore warrants further review and action.[27] Our completeness criteria for SIP submittals are at 40 CFR part 51, appendix V. We attempt to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under section 110(k)(1)(B) of the Act if a completeness determination is not made within six months after receipt of the submission.

On June 5, 2019, the UAQB proposed amendments to Utah SIP Section X, Vehicle Inspection and Maintenance Program, Parts A and F, R307–110–31, and R307–110–36. The comment period was held from July 1, 2019, to July 31, 2019. No comments were received, and no public hearing was requested. On September 4, 2019, the UAQB adopted revisions to R307–110–31, R307–110–36, and to Utah SIP Section X, Vehicle Inspection and Maintenance Program, Parts A and F. These revisions became effective on September 5, 2019, and UDAQ submitted these revisions to the EPA on November 5, 2019.

[27] Section 110(k)(1) of the Act and 57 FR 13565, April 16, 1992.

On September 4, 2019, the UAQB proposed for public comment the Logan maintenance plan and redesignation request and revisions to R307–110–10. The public comment period was held from October 1, 2019, to October 31, 2019. UDAQ received comments from industry and citizens; and no public hearing was requested. UDAQ provided the comments and their responses within the submittal. The comments did not prompt UDAQ to substantively revise any documents. UDAQ made a few minor revisions to the plan once the data and modeling were verified. On December 4, 2019, the UAQB adopted R307–110–10 and the Logan maintenance plan/redesignation request, and they became effective on December 5, 2019. UDAQ submitted these revisions and the TSD to the EPA on January 13, 2020.

III. Proposed Action

We are proposing to approve the Governor of Utah's submittal of January 13, 2020, which contains revisions to R307–110–10 and the Logan $PM_{2.5}$ maintenance plan and redesignation request. We are also proposing to approve the Governor of Utah's submittal of November 5, 2019, which contains revisions to R307–110–31, R307–110–36, Utah SIP Section X.A., and Utah SIP Section X.F. We are proposing to approve the maintenance plan's 2035 MVEBs. In addition, we are also proposing to approve the NO_X-to-direct-$PM_{2.5}$ MVEB trading mechanism. We are proposing approval of these submissions because UDAQ has adequately addressed all requirements of the Act for the SIP revisions and the redesignation to attainment applicable to the Logan 2006 24-hour $PM_{2.5}$ NAA. We are using 2017–2019 ambient air quality data from Logan NAA as the basis for our decision. We have evaluated the ambient air quality data and have determined that the Logan 2006 24-hour $PM_{2.5}$ NAAQS NAA continues to attain the standard based on the available monitoring data. A separate EPA redesignation rulemaking will be conducted for the Idaho portion of the Logan NAA. Upon the effective date of a subsequent final action, the designation status of the Utah portion of the Logan area under 40 CFR part 81 will be revised to attainment.

IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to R307–110–10; R307–110–31; R307–110–36; Utah SIP Section X.A.; Utah SIP Section X.F.; maintenance plan for the Utah portion of the Logan $PM_{2.5}$ NAA; and the redesignation request for the Logan $PM_{2.5}$ NAA to attainment. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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, 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. Accordingly, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

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.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, and Wilderness areas.

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

Dated: February 17, 2021.

Debra Thomas,

Acting Regional Administrator, EPA Region 8.

[FR Doc. 2021–03819 Filed 2–25–21; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2020–0134; FXMB12610700000–201–FF07M01000]

RIN 1018–BF08

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2021 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

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

DATES: We will accept comments received or postmarked on or before March 29, 2021.

Information Collection Requirements: If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to OMB by March 29, 2021.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to Docket No. FWS–R7–MB–2020–0134.
- *U.S. mail:* Public Comments Processing, Attn: FWS–R7–MB–2020–0134; U.S. Fish and Wildlife Service, MS: JAO/3W, 5275 Leesburg Place, Falls Church, VA 22041–3803.

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 Comment Procedures section, below, for more information).

Information Collection Requirements: Written comments and suggestions on the information collection requirements should be submitted within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference ''OMB Control Number 1018–BF08'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Eric J. Taylor, U.S. Fish and Wildlife Service, 1011 E Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 903–7210.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

To ensure that any action resulting from this proposed rule will be as accurate and as effective as possible, we request that you send relevant information for our consideration. The comments that will be most useful and likely to influence our decisions are those that you support by quantitative information or studies and those that include citations to, and analyses of, the applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

You must submit your comments and materials concerning this proposed rule by one of the methods listed above in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information, such as your address, telephone number, or email address—will be posted on the website. When you submit a comment, the system receives it immediately. However, the comment will not be publicly viewable until we post it, which might not occur until several days after submission.

If you mail a hardcopy comment directly to us that includes personal 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. All comments and materials we receive will be available for public inspection via *http://www.regulations.gov.* Search for FWS–R7–MB–2020–0134, which is the docket number for this rulemaking.

Background

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

The take of migratory birds for subsistence uses in Alaska occurs during the spring and summer, during which timeframe the sport harvest of migratory birds is not allowed. Regulations governing the subsistence harvest of migratory birds in Alaska are located in title 50 of the Code of Federal Regulations (CFR) in part 92. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds and prescribe regional information on when and where the harvesting of birds in Alaska may occur.

The migratory bird subsistence harvest regulations are developed cooperatively. The Alaska Migratory Bird Co-Management Council (Council or AMBCC) consists of the U.S. Fish and Wildlife Service, the Alaska Department of Fish and Game (ADFG), and representatives of Alaska's Native population. The Council's primary purpose is to develop recommendations pertaining to the subsistence harvest of migratory birds.

The Council generally holds an annual spring meeting to develop recommendations for migratory bird subsistence-harvest regulations in Alaska that would take effect in the spring of the next year. In 2020, the in-person spring meeting did not occur due to the coronavirus. Instead, the Council met virtually via teleconference on May 4, 2020, to approve subsistence harvest regulations that would take effect during the 2021 harvest season. The Council's recommendations were presented to the Pacific Flyway Council for review and subsequent submission to the Service Regulations Committee (SRC) for approval at the SRC meeting on October 20–21, 2020.

This proposed rule contains two changes to the subsistence harvest regulations recommended by the Council in 2020 for the subsistence harvest season, and three clarifications, as described below.

Proposed Revisions to the Regulations

Per the collaborative process described above, this document proposes updates to the regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer.

For the 2021 season, we are proposing one change to the regulations in part 92, subpart A (general provisions) and one change to part 92, subpart C (general regulations governing the subsistence harvest). In addition, we include three clarifications, as described below.

(1) Upper Copper River Region Permit for Hunters From Excluded Areas To Hunt in the Region

This proposed change to the regulations in part 92, subpart A (general provisions) would add another method (a permit) to invite a hunter from an excluded area to participate in the spring-summer subsistence hunt in the Upper Copper River region.

Current regulations in 50 CFR 92.5(d) allow immediate family members (children, parents, grandparents, and siblings) living in excluded areas to participate in the customary spring-summer subsistence harvest of migratory birds in a village's subsistence area, if invited via letter by the respective Village Council, to assist permanent residents of the village in meeting their nutritional and other essential needs or for teaching cultural knowledge. A letter of invitation is sent to the hunter with a copy provided to the Executive Director of the AMBCC, who will inform the Service's Alaska Regional Office of Law Enforcement within 2 business days. In addition to the letter of invitation, this proposal would add another method (a permit) to invite a hunter from an excluded area to participate in the spring-summer subsistence hunt in the Upper Copper River region. The permit would certify that the prospective hunter is an immediate family member as defined in 50 CFR 92.4 and is thereby authorized to assist family members in hunting migratory birds in the subsistence harvest area of the region.

To date, the AMBCC Executive Director has received two letters of invitation to hunt in the State of Alaska since the last revision of 50 CFR 92.5(d) in 2014 (79 FR 19454, April 8, 2014). The letter of invitation requirement is viewed by the Upper Copper River

Region as burdensome and administratively inefficient due in large part to high turnover in Tribal administrative staff. In the Upper Copper River Region, an invitation to hunt by permit is considered less onerous and a more practical approach for eligible hunters to invite participation by family member living in excluded areas. The proposed regulation would add the invitation by permit as an option for Tribal Councils or their authorized tribal representatives in the Upper Copper River Region to administer the invitation to hunt in their subsistence harvest area. Invited hunters would be required to carry the permit while hunting as proof of eligibility. The permit would be valid for 2 years from the date of issuance. A list of permittees will be forwarded to the AMBCC Executive Director, who will then forward the list to the Service's Alaska Regional Office of Law Enforcement.

This proposed change to the regulations in subpart A is not anticipated to result in a significant increase in harvest of birds and eggs in the Upper Copper River Region because invited hunters are authorized only to assist in fulfilling the needs of immediate family members in villages or teaching cultural knowledge.

(2) Closure on Harvest of Emperor Goose Eggs Statewide

This proposed change to the regulations in part 92, subpart C (general regulations governing the subsistence harvest general provisions) closes the harvest of emperor goose eggs statewide.

The abundance (index) of emperor geese *(Anser canagicus)* is estimated annually via the Service's (Alaska Region) Yukon-Kuskokwim Delta Coastal Zone (Coastal Zone) survey. This information is used to inform harvest management decisions for emperor geese based on harvest strategies in the AMBCC Emperor Goose Management Plan (Plan) and the Pacific Flyway Council Management Plan. The harvest strategy in the Plan prescribes an open emperor geese subsistence season if the Coastal Zone index from the previous year is greater than 23,000 geese, and a closed season if the index is below 23,000 geese. If the Coastal Zone index is between 23,000 and 28,000 geese, the AMBCC will consider implementing regulatory or nonregulatory conservation measures to help avoid a closed season in subsequent seasons. In 2019, the Coastal Zone index (26,585; 95% Confidence Limit = 24,161–29,008 geese) dropped below the 28,000-bird threshold that triggers consideration of conservation measures. For the 2020 spring-summer hunting season, the AMBCC agreed to develop and distribute outreach and educational materials to help limit emperor goose harvest. The coronavirus forced the cancellation of the Coastal Zone survey in 2020. Consequently, no Coastal Zone index was available to inform regulatory decisions for the 2021 season.

The harvest strategy in the Plan does not include guidance on making regulatory decisions in the absence of previous year's survey data; thus, the AMBCC's Emperor Goose Subcommittee convened on June 2, 2020, to consider available emperor goose population status information in the absence of the 2020 Coastal Zone index. They considered results from a number of approaches to infer emperor goose population status in 2020 including prediction from a demographic model (Osnas 2020). Results from the different approaches were in general agreement, and indicated that abundance of emperor geese in 2020 likely remains between the 23,000 and 28,000 population thresholds with low probability that abundance was below the closure threshold.

Because the predicted abundance of emperor geese remains between the population thresholds requiring consideration of conservation measures, the AMBCC Emperor Goose Subcommittee and AMBCC recommended the emperor goose season remain open in 2021. This recommendation includes outreach and educational efforts and closure of emperor goose egg gathering in Alaska to help limit harvest of emperor geese, considering the uncertainty in emperor goose population status in 2020 and the desire to reduce the probability of having a closed season in the future. This proposed regulatory change would affect the list of subsistence migratory bird species in § 92.22, which is in subpart C.

Clarification of Central Interior Excluded Area Boundary

Current regulations in 50 CFR 92.5(b)(1) define the geographic boundaries of the Central Interior Excluded Area but mistakenly fail to include the Fairbanks North Star Borough. In 2007, the Service enacted the ADFG's request to expand the Fairbanks North Star Borough Excluded Area (72 FR 18317 April 11, 2007). This regulatory change appears in 50 CFR 92.5(b)(3). The expanded Fairbanks North Star Borough Excluded Area was renamed the Central Interior Excluded Area, but the description of the area defined in 50 CFR 92.5(b)(3) fails to specifically include the Fairbanks North Star Borough. The proposed clarification includes the words ''Fairbanks North Star Borough'' in the description of the Central Interior Excluded Area.

Clarification of the Kodiak Archipelago Region Kodiak Island Roaded Area 3-Year Experimental Season

In 2020, the Service approved a 3-year experimental season for migratory bird hunting and egg gathering by registration permit only within the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska, as recommended by the AMBCC in 2019 (85 FR 73233, November 17, 2020). This regulatory change appears in 50 CFR 92.31. The Roaded Area was to remain closed to hunting and egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese. The regulation allows residents of the Kodiak Archipelago Region the opportunity to participate in subsistence hunting activities without the need for a boat in an area that otherwise restricts hunting to 500 feet offshore and offshore islands.

Initially, we and the AMBCC expected that the 3-year experimental season would begin in 2020 and continue through 2022. We associated those years with the 3-year experimental season in the supplementary information of the proposed and final rules in 2020, although years were not specified in the regulations allowing the season. Delay in publishing the proposed and final rules in 2020 prevented the 3-year experimental season from beginning in 2020 as initially expected. Therefore, we clarify here that our intent remains the same—to allow a 3-year experimental season for migratory bird hunting and egg gathering by registration permit along the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska—but that this season is now expected to occur during the 2021–2023 subsistence seasons. The experimental season will terminate at the completion of the third year, now expected to be in 2023. Reopening the Roaded Area after the 3-year experimental period will require a subsequent proposal from the AMBCC for continuation of the season under either operational or experimental status.

Clarification of the Kodiak Archipelago Region Kodiak Island Roaded Area Boundary

As described above, in 2020, the Service approved a 3-year experimental season for migratory bird hunting and egg gathering by registration permit within the Kodiak Island Roaded Area

in the Kodiak Archipelago Region of Alaska, as recommended by the AMBCC in 2019 (85 FR 73233, November 17, 2020). This regulatory change appears in 50 CFR 92.31. Prior to this change, the Kodiak Island Roaded Area was closed to hunting. Following approval of a hunt within the previously closed area, the current boundary description of the Kodiak Island Roaded Area in 50 CFR 92.31(e) includes the term ''closed area.'' We propose to clarify the language by replacing the words ''closed area'' with ''Kodiak Island Roaded Area'' in 50 CFR 92.31(e) and by improving the clarity of the boundary description.

Subsistence Migratory Bird Species

On April 16, 2020, we published in the **Federal Register** (85 FR 21282) a revised List of Migratory Birds protected under the Migratory Bird Treaty Act (MBTA) by both adding and removing species to the list, which appears in 50 CFR 10.13. Reasons for the changes to the list included adding species based on revised taxonomy and new evidence of natural occurrence in the United States or U.S. territories, removing species no longer known to occur within the United States or U.S. territories, and changing names to conform to accepted use. This rule went into effect on May 18, 2020. The revised List of Migratory Birds updated nomenclature (family or scientific name) for 17 species on the list of birds open to subsistence harvest (50 CFR 92.22) and separated Canada goose into two separate species: Cackling goose (*Branta hutchinsii*) and Canada goose (*Branta canadensis*). Therefore, to be consistent with the taxonomy on the List of Migratory Birds, we are proposing to update the taxonomy of the list of migratory birds open to subsistence harvest at 50 CFR 92.22, and correct 11 typographical errors in species common names. We are also taking this opportunity to reorganize the list of migratory birds open to subsistence harvest to follow the order of bird families as they appear in 50 CFR 10.13.

Also, we are proposing to add the common snipe to the list of migratory birds open to subsistence harvest. On April 1, 2016, we published in the **Federal Register** (81 FR 18787) a revised list migratory bird subsistence species where we replaced the common snipe with Wilson's snipe to account for taxonomic changes; Wilson's snipe was previously considered a subspecies under common snipe. Snipe in Alaska are recognized primarily as Wilson's snipe, but common snipe are known to occur on the Aleutian Islands of Alaska. Thus, for administrative purposes, we clarify that snipe includes both recognized species in Alaska: Wilson's snipe and common snipe. Because, historically, common snipe applied to both species of snipe, the separation of these species in the list of migratory birds open to subsistence harvest will not result in differential harvest effects on either species.

Compliance With the MBTA and the Endangered Species Act

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

Mortality, sickness, and poisoning from lead exposure have been documented in many waterfowl species, including threatened spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*). While lead shot has been banned nationally for waterfowl hunting since 1991, Service staff have documented significant availability of lead shot in waterfowl rounds for sale in communities on the Yukon-Kuskokwim Delta and North Slope. The Service will work with partners to increase our education, outreach, and enforcement efforts to ensure that subsistence waterfowl hunting is conducted using nontoxic shot.

Conservation Under the MBTA

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

Endangered Species Act Consideration

Spectacled eiders and the Alaska-breeding population of Steller's eiders are listed as threatened species under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Neither species is included in the list of subsistence migratory bird species at 50 CFR 92.22; therefore, both species are closed to subsistence harvest. The Service notes that progress is being made with other eider conservation measures, including partnering with the North Slope Migratory Bird Task Force, for increased waterfowl-hunter awareness, continued enforcement of the regulations, and in-season verification of the harvest. Moreover, under 50 CFR 92.21 and 92.32, the Service may implement emergency closures, if necessary, to protect Steller's eiders or any other endangered or threatened species or migratory bird population.

Section 7 of the ESA requires the Secretary of the Interior to review other programs administered by the Department of the Interior and utilize such programs in furtherance of the purposes of the ESA. The Secretary is further required to insure that any action authorized, funded, or carried out by the Department of the Interior is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat.

The Service's Alaska Region Migratory Bird Management Program conducted an intra-agency consultation with the Service's Fairbanks Fish and Wildlife Field Office on this proposed rule. A biological opinion will be updated based on new information to ensure these rulemaking actions are not likely to jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. Therefore, we expect this rulemaking will comply with the ESA.

Comment Period

Implementation of the Service's 2013 supplemental environmental impact statement (EIS) on the hunting of migratory birds resulted in changes to the overall timing of the annual regulatory schedule for the establishment of migratory bird hunting regulations and the Alaska migratory bird subsistence harvest regulations. The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the

Environmental Protection Agency (EPA) on May 24, 2013, addresses compliance with the National Environmental Policy Act by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability of the EIS in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376).

The 2013 EIS moved the annual SRC meeting from July to October, and this procedural change has greatly shortened our period each year to publish the proposed regulations and solicit comments. We are further bounded by a subsistence harvest start date of April 2, 2021. Thus, we have established a 30-day comment period for this proposed rule (see **DATES**, above), and we will be conducting Tribal consultations within Alaska simultaneously. We believe a 30-day comment period gives the public adequate time to provide meaningful comments.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this 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 Department of the Interior certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This proposed rule would legalize a preexisting subsistence activity, and the resources harvested will be consumed.

Small Business Regulatory Enforcement Fairness Act

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

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

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

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

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, State, or Tribal governments or private entities. The proposed rule would not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act is not required. Participation on regional management bodies and the Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The ADFG also incurs expenses for travel to Council and regional management body meetings. In addition, the State of Alaska would be required to provide technical staff support to each of the regional management bodies and to the Council. Expenses for the State's involvement may exceed $100,000 per year, but should not exceed $150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the ADFG to help offset their expenses.

Takings (Executive Order 12630)

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

Federalism (Executive Order 13132)

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

Civil Justice Reform (Executive Order 12988)

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

Government-to-Government Relations With Native American Tribal Governments

Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), ''Consultation and Coordination with Indian Tribal Governments,'' and Department of the Interior policy on Consultation with Indian Tribes (December 1, 2011), we will send letters

via electronic mail to all 229 Alaska federally recognized Indian Tribes. Consistent with Congressional direction (Pub. L. 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also will send letters to approximately 200 Alaska Native corporations and other Tribal entities in Alaska soliciting their input as to whether or not they would like the Service to consult with them on the 2021 migratory bird subsistence harvest regulations.

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

Paperwork Reduction Act of 1995 (PRA)

This proposed rule contains existing, revised, and new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has previously approved the information collection requirements associated with subsistence harvest reporting and assigned OMB Control Number 1018–0124. We will submit a revision to 1018–0124 to incorporate the new harvest reporting requirements contained in this rulemaking. Additionally, we will request a new OMB control number for the permit and information letter requirements contained in this rulemaking.

The existing information collection requirements identified are currently approved by OMB under Control Number 1018–0124:

The harvest surveys collect information on the subsistence harvest in Alaska of ~60 species categories of birds and their eggs (geese, ducks, swans, crane, ptarmigan and grouse, seabirds, shorebirds, loons and grebes). Survey data includes species category and amounts of birds and eggs taken for subsistence use in each harvest season (spring, summer, fall, winter). The surveys rely on collaboration among the USFWS, the ADFG, and many Alaska Native organizations. Contracts and cooperative agreements are in place to facilitate the collection of data with Alaska Native organizations and other regional and local partners. Surveyors contact local residents. The ADFG Division of Subsistence coordinates the surveys on behalf of the AMBCC via a cooperative agreement with the USFWS.

The USFWS uses the survey data to:

(1) Inform harvest regulations for migratory birds and their eggs so they are consistent with the long-term sustainability of bird populations;

(2) Document subsistence harvest trends and track changes in harvest;

(3) Document the importance of birds as food and cultural resources for subsistence communities in Alaska;

(4) Protect sustainable harvest opportunities; and

(5) Assist in the development of management plans by State and Federal agencies.

Federal and State agencies use the data collected to develop harvest regulations and protect sustainable harvest opportunities. The USFWS adjusts harvest regulations as needed to provide maximum and sustainable subsistence harvest opportunities while accounting for current bird population status and population goals established in species' management plans. The AMBCC uses this information to make regulation recommendations to the Service Regulations Committee. Nongovernmental organizations use survey data to monitor the status of uses of migratory bird resources in Alaska and internationally. The survey also became a main line of communication between wildlife management agencies and the local communities and harvesters.

Participation in the surveys is voluntary for communities and households. In selected communities that agree to participate, surveyors compile a list of all permanent households or addresses, provide information about the survey, and assist households to complete the harvest report form (hardcopy) in in-person interviews. Households may offer comments on their harvest, on the availability of birds, on the survey, or any other topic related to bird harvest. The survey uses the following forms:

(1) *Tracking Sheet & Household Consent (FWS Form 3–2380):* The surveyor invites each selected household to participate and completes FWS Form 3–2380 documenting whether each selected household agreed to participate, did not agree, or could not be contacted. The surveyor also uses this form to keep track of survey work.

(2) *Harvest Report (FWS Forms 3–2381–1, 3–2381–2, 3–2381–3, 3–2381–4, and 3–2381–5:* The forms have up to four sheets, one for each surveyed season. The Western and Interior forms (3–2381–1 and 3–2381–3; ~394 households surveyed per year) have 3 sheets (spring, summer, and fall). The Bristol Bay form has 4 sheets (spring, summer, fall, winter; ~110 households surveyed per year). The North Slope form has two sheets (spring and summer; ~150 households surveyed per year). The Cordova form has only 1 sheet (spring; ~27 households surveyed per year). The weighted average for the whole survey is 2.96 seasonal sheets (rounded as 3 for calculation of burden estimates). Each seasonal sheet has drawings of bird species, next to which are fields to record the number of birds and eggs harvested. Because bird species available for harvest vary in different regions of Alaska, there are five versions of the harvest report form with different sets of species. This helps to prevent erroneously recording bird species as harvested in areas where they do not usually occur.

The revised and new information collection requirements identified below require approval by OMB in conjunction with the revision to OMB Control Number 1018–0124:

(1) *Splitting burden estimates for 3–2381–5, Cordova survey (REVISED):* We realized the previous submission to OMB incorrectly reported 3 submissions of the Cordova survey rather than a single submission for the spring season. We are separating the burden for this survey out separately from FWS Forms 3–2381–1, Forms 3–2381–2, Forms 3–2381–3, and Forms 3–2381–4 to more accurately report harvest data reporting burden.

(1) *Harvest Report (FWS Forms 3–2381–6 (new) and 3–2381–7 (NEW):* Starting in 2021, a mail survey akin to that conducted for the Cordova harvest will be implemented for the Kodiak roaded area harvest as required by updated Federal regulations for the Kodiak Archipelago region. To participate in the Kodiak roaded area harvest, harvesters are required to

obtain a permit and to complete a harvest report form, even if they did not harvest. (We will request OMB approval of this permit requirement in a separate request for a new OMB control number explained below). Staff from the ADFG Division of Subsistence worked in close collaboration with the Sun'aq Tribe of Kodiak to develop the permit and harvest reporting system. The Sun'aq Tribe requested in-season harvest reporting. Permits will be issued by the Sun'aq Tribe.

The Kodiak Roaded Area In-Season Harvest Report (FWS Form 3–2381–6) will be provided to permit holders at the time the permit is issued. Harvesters are required to record their harvest using this form during the season. At the end of the season (early Sept.), all permit holders are required to submit the completed Kodiak Roaded Area In-Season Harvest Report (FWS Form 3–2381–7) indicating whether they harvested birds and eggs, and if so, the kinds and amounts of birds and eggs harvested. Permit holders submit the completed form by mail to the ADFG for data analysis (the form includes the return address and is postage-paid). To ensure a more complete harvest reporting, the ADFG will mail a post-season harvest survey to permit holders who did not submit a completed in-season harvest log. The post-season mail survey includes two reminders. Reported harvests will be extrapolated to represent all permit holders based on statistical methods. Forms 3–2381–6 and 3–2381–7 are only completed twice per year (spring and summer seasons).

Title of Collection: Alaska Migratory Bird Subsistence Harvest Household Surveys.

OMB Control Numbers: 1018–0124.

Form Numbers: FWS Forms 3–2381–1, Forms 3–2381–2, Forms 3–2381–3, Forms 3–2381–4, Forms 3–2381–5, Forms 3–2381–6 (New), and Forms 3–2381–7 (New).

Type of Review: Revision to a previously approved information collection.

Respondents/Affected Public: Individuals and Tribal governments.

Total Estimated Number of Annual Respondents: 2,351.

Total Estimated Number of Annual Responses: 4,551.

Estimated Completion Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 379.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

The additional information collection requirements associated with permits and invitation letters contained in this proposed rule identified below require approval by OMB and assignment of a new OMB control number:

(1) *Tribal or Village Council Invitation Letter:* Regulations at 50 CFR 92.5(d) allow immediate family members (children, parents, grandparents, and siblings) living in excluded areas to participate in the customary spring-summer subsistence harvest of migratory birds in a village's subsistence area. This letter of invitation is intended to assist permanent residents of the village in meeting their nutritional and other essential needs or for teaching cultural knowledge. The regulations specify that participation of residents of excluded areas in the spring-summer harvest of migratory birds in an eligible area must be pre-authorized by a letter of invitation issued by a local Tribal or Village Council within the harvest area.

(2) *Tribal Council Invitation Permit:* In 2020, the Service issued final regulations (RIN 1018–BF12, 85 FR 73235, November 17, 2020) that established a permit as another method to invite an immediate family member residing in an excluded area to participate in the spring-summer subsistence hunt in a defined eligible area. The permit, issued by the Tribal Council, certifies that the prospective hunter is an immediate family member as defined in 50 CFR 92.4 and is thereby authorized to assist family members in hunting migratory birds in a defined subsistence harvest area. The permit is valid for 2 years from the date of issuance.

(3) *Tribal Council Notifications to AMBCC:* Tribal Councils will provide a list of permittees to the Executive Director of the AMBCC.

(4) *AMBCC Notification to AK Region Office of Law Enforcement:* Upon receiving copies of the letters of invitation and issued permits from Tribal and Village Councils, the AMBCC Executive Director will inform the Service's Alaska Regional Office of Law Enforcement (AK–OLE) within 2 business days. To date, only two letters have been received.

(5) *Kodiak Island Roaded Area Experimental Season Permit:* The Service's 2020 final rule (RIN 1018–BF12) approved a 3-year experimental season for migratory bird hunting and egg gathering in the Kodiak Island Roaded Area in the Kodiak Archipelago Region (50 CFR 92.31). Harvesting in the Kodiak roaded area requires a mandatory permit and harvest reporting. The Sun'aq Tribe of Kodiak worked in close collaboration with the ADFG Division of Subsistence to develop a permit and harvest monitoring system. Permits are issued by the Sun'aq Tribe of Kodiak to individual harvesters. The Sun'aq tribe provide copies of issued permits to the ADFG Division of Subsistence, which uses this information to manage the harvest reporting system. The permit includes fields to write the permit holder's name and mailing address as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also includes a map of the harvest area and description of the harvest regulations including the list of species opened to harvest. Permit data are securely disposed of after completion of the annual harvest data collection and analysis.

The regulation allows a 3-year experimental season (this proposed rule updates the seasons from 2020–2022 to the 2021–2023 subsistence seasons) for migratory bird hunting and egg gathering by registration permit along the Kodiak Island Roaded Area in the Kodiak Archipelago Region of Alaska. The experimental season will terminate at the completion of the third year in 2023. Reopening the Roaded Area after the 3-year experimental period will require a subsequent proposal from the AMBCC for continuation of the season under either operational or experimental status.

(6) *Cordova Harvest Household Registration:* The Service's final rule published on April 8, 2014 (79 FR 19454) authorized spring-summer harvest of migratory birds by residents of the community of Cordova in the Gulf of Alaska region. In 2017, the regulations were updated to allow residents of the neighboring communities of Tatitlek and Chenega to harvest in the area defined for the Cordova harvest (82 FR 16298, April 4, 2017). Local partners including the Eyak Tribe and the U.S. Forest Service Cordova Office Chugach Subsistence Program worked in close collaboration with the ADFG Division of Subsistence to develop a household registration and harvest monitoring system using a post-season mail survey. Household registrations are issued by the Tribal councils of the communities of Cordova, Tatitlek, and Chenega as well as by the U.S. Forest Service Cordova Office Chugach Subsistence Program. The registration form includes fields to write the permit holder's name and mailing address as well as a field for the permit holder to sign acknowledging the terms of the permit. The permit also includes fields to write the names of other household members authorized to harvest under the registration.

Registration data are securely disposed of after completion of the annual harvest data collection and analysis.

Title of Collection: Regulations for the Taking of Migratory Birds for Subsistence Uses in Alaska, 50 CFR Part 92.

OMB Control Numbers: 1018–New.

Form Numbers: None.

Type of Review: New.

Respondents/Affected Public: Individuals and Tribal governments.

Total Estimated Number of Annual Respondents: 234.

Total Estimated Number of Annual Responses: 234.

Estimated Completion Time per Response: Varies from 15 minutes to 30 minutes, depending on activity.

Total Estimated Number of Annual Burden Hours: 62.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Send your written comments and suggestions on this information collection to OMB by the date indicated in **DATES** to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference ''OMB Control Number 1018–BF08'' in the subject line of your comments.

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

The annual regulations and options are considered in a January 2021 environmental assessment, ''Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2021 Spring/Summer Harvest.'' Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at *http://www.regulations.gov.*

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

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

Reference Cited

Osnas, E. 2020. A simple state space model framework to predict harvest management survey observations in 2020. USFWS, publ. analyses: *https://github.com/USFWS/State* Space-Prediction-2020.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Proposed Regulation Promulgation

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

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

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

Authority: 16 U.S.C. 703–712.

■ 2. Amend § 92.5 by revising paragraphs (b)(3) and (d) to read as follows:

§ 92.5 Who is eligible to participate?

* * * * *

(b) * * *

(3) The Central Interior Excluded Area comprises the following: The Fairbanks North Star Borough and that portion of Unit 20(A) east of the Wood River drainage and south of Rex Trail, including the upper Wood River drainage south of its confluence with Chicken Creek; that portion of Unit 20(C) east of Denali National Park north to Rock Creek and east to Unit 20(A); and that portion of Unit 20(D) west of the Tanana River between its confluence with the Johnson and Delta Rivers, west of the east bank of the Johnson River, and north and west of the Volmar drainage, including the Goodpaster River drainage. The following communities are within the Excluded Area: Delta Junction/Big Delta/Fort Greely, McKinley Park/Village, Healy, Ferry, and all residents of the formerly named Fairbanks North Star Borough Excluded Area.

* * * * *

(d) *Participation by permanent residents of excluded areas.* Immediate family members who are residents of excluded areas may participate in the customary spring and summer subsistence harvest in a community's subsistence area with permission of the Village or Tribal council, whichever is appropriate, to assist indigenous inhabitants in meeting their nutritional and other essential needs or for the teaching of cultural knowledge using one of the following procedures:

(1) A letter of invitation will be sent by the Tribal or village council to the hunter with a copy to the Executive Director of the Co-management Council, who will inform the Service's Alaska Region Law Enforcement Office and the Service's Co-management Council Coordinator within 2 business days. The Service will then inform any affected Federal agency when residents of excluded areas are allowed to participate in the subsistence harvest within their Federal lands.

(2) For the Upper Copper River Region, a permit may be issued by the Tribal Council or their authorized Tribal representative to the invited hunter certifying that the permit holder is an immediate family member authorized to assist eligible family members in hunting migratory birds in the Tribe's subsistence harvest area. A permit is valid for 2 years from date of issuance. A list of permit holders will be sent to the Executive Director of the Co-management Council, who will inform the Service's Alaska Region Office of Law Enforcement and the Service's Co-management Council Coordinator within 2 business days. The Service will then inform any affected Federal agency when residents of excluded areas are allowed to participate in the subsistence harvest within their Federal lands.

■ 3. Amend § 92.22 by revising paragraphs (a) through (l) and adding paragraph (m) to read as follows:

§ 92.22 Subsistence migratory bird species.

* * * * *

(a) *Family Anatidae.* (1) Emperor Goose (*Anser canagicus*)—except no egg gathering is permitted.

(2) Snow Goose (*Anser caerulescens*).

(3) Greater White-fronted Goose (*Anser albifrons*).

(4) Brant (*Branta bernicla*)—except no egg gathering is permitted in the Yukon/Kuskokwim Delta and the North Slope regions.

(5) Cackling Goose (*Branta hutchinsii*)—except in the Semidi Islands.

(6) Canada Goose (*Branta canadensis*).

(7) Tundra Swan (*Cygnus columbianus*)—except in Units 9(D) and 10.

(8) Blue-winged Teal (*Spatula discors*).

(9) Northern Shoveler (*Spatula clypeata*).

(10) Gadwall (*Mareca strepera*).

(11) Eurasian Wigeon (*Mareca penelope*).

(12) American Wigeon (*Mareca americana*).

(13) Mallard (*Anas platyrhynchos*).

(14) Northern Pintail (*Anas acuta*).

(15) Green-winged Teal (*Anas crecca*).

(16) Canvasback (*Aythya valisineria*).

(17) Redhead (*Aythya americana*).

(18) Ring-necked Duck (*Aythya collaris*).

(19) Greater Scaup (*Aythya marila*).

(20) Lesser Scaup (*Aythya affinis*).

(21) King Eider (*Somateria spectabilis*).

(22) Common Eider (*Somateria mollissima*).

(23) Harlequin Duck (*Histrionicus histrionicus*).

(24) Surf Scoter (*Melanitta perspicillata*).

(25) White-winged Scoter (*Melanitta deglandi*).

(26) Black Scoter (*Melanitta americana*).

(27) Long-tailed Duck (*Clangula hyemalis*).

(28) Bufflehead (*Bucephala albeola*).

(29) Common Goldeneye (*Bucephala clangula*).

(30) Barrow's Goldeneye (*Bucephala islandica*).

(31) Hooded Merganser (*Lophodytes cucullatus*).

(32) Common Merganser (*Mergus merganser*).

(33) Red-breasted Merganser (*Mergus serrator*).

(b) *Family Podicipedidae.* (1) Horned Grebe (*Podiceps auritus*).

(2) Red-necked Grebe (*Podiceps grisegena*).

(c) *Family Gruidae.* (1) Sandhill Crane (*Antigone canadensis*).

(2) [Reserved]

(d) *Family Haematopodidae.* (1) Black Oystercatcher (*Haematopus bachmani*).

(2) [Reserved]

(e) *Family Charadriidae.* (1) Black-bellied Plover (*Pluvialis squatarola*).

(2) Common Ringed Plover (*Charadrius hiaticula*).

(f) *Family Scolopacidae.* (1) Bar-tailed Godwit (*Limosa lapponica*).

(2) Ruddy Turnstone (*Arenaria interpres*).

(3) Sharp-tailed Sandpiper (*Calidris acuminata*).

(4) Dunlin (*Calidris alpina*).

(5) Baird's Sandpiper (*Calidris bairdii*).

(6) Least Sandpiper (*Calidris minutilla*).

(7) Semipalmated Sandpiper (*Calidris pusilla*).

(8) Western Sandpiper (*Calidris mauri*).

(9) Long-billed Dowitcher (*Limnodromus scolopaceus*).

(10) Common Snipe (*Gallinago gallinago*).

(11) Wilson's Snipe (*Gallinago delicata*).

(12) Spotted Sandpiper (*Actitis macularius*).

(13) Lesser Yellowlegs (*Tringa flavipes*).

(14) Greater Yellowlegs (*Tringa melanoleuca*).

(15) Red-necked Phalarope (*Phalaropus lobatus*).

(16) Red Phalarope (*Phalaropus fulicarius*).

(g) *Family Stercorariidae.* (1) Pomarine Jaeger (*Stercorarius pomarinus*).

(2) Parasitic Jaeger (*Stercorarius parasiticus*).

(3) Long-tailed Jaeger (*Stercorarius longicaudus*).

(h) *Family Alcidae.* (1) Common Murre (*Uria aalge*).

(2) Thick-billed Murre (*Uria lomvia*).

(3) Black Guillemot (*Cepphus grylle*).

(4) Pigeon Guillemot (*Cepphus columba*).

(5) Cassin's Auklet (*Ptychoramphus aleuticus*).

(6) Parakeet Auklet (*Aethia psittacula*).

(7) Least Auklet (*Aethia pusilla*).

(8) Whiskered Auklet (*Aethia pygmaea*).

(9) Crested Auklet (*Aethia cristatella*).

(10) Rhinoceros Auklet (*Cerorhinca monocerata*).

(11) Horned Puffin (*Fratercula corniculata*).

(12) Tufted Puffin (*Fratercula cirrhata*).

(i) *Family Laridae.* (1) Black-legged Kittiwake (*Rissa tridactyla*).

(2) Red-legged Kittiwake (*Rissa brevirostris*).

(3) Ivory Gull (*Pagophila eburnea*).

(4) Sabine's Gull (*Xema sabini*).

(5) Bonaparte's Gull (*Chroicocephalus philadelphia*).

(6) Mew Gull (*Larus canus*).

(7) Herring Gull (*Larus argentatus*).

(8) Slaty-backed Gull (*Larus schistisagus*).

(9) Glaucous-winged Gull (*Larus glaucescens*).

(10) Glaucous Gull (*Larus hyperboreus*).

(11) Aleutian Tern (*Onychoprion aleuticus*).

(12) Arctic Tern (*Sterna paradisaea*).

(j) *Family Gaviidae.* (1) Red-throated Loon (*Gavia stellata*).

(2) Arctic Loon (*Gavia arctica*).

(3) Pacific Loon (*Gavia pacifica*).

(4) Common Loon (*Gavia immer*).

(5) Yellow-billed Loon (*Gavia adamsii*)—In the North Slope Region only, a total of up to 20 yellow-billed loons inadvertently caught in fishing nets may be kept for subsistence purposes.

(k) *Family Procellariidae.* (1) Northern Fulmar (*Fulmarus glacialis*).

(2) [Reserved]

(l) *Family Phalacrocoracidae.* (1) Double-crested Cormorant (*Phalacrocorax auritus*).

(2) Pelagic Cormorant (*Phalacrocorax pelagicus*).

(m) *Family Strigidae.* (1) Great Horned Owl (*Bubo virginianus*).

(2) Snowy Owl (*Bubo scandiacus*).

■ 4. Amend § 92.31 by revising paragraph (e) to read as follows:

§ 92.31 Region-specific regulations.

* * * * *

(e) *Kodiak Archipelago region.* The Kodiak Island Roaded Area is open to the harvesting of migratory birds and their eggs by registration permit only as administered by the Alaska Department of Fish and Game, Division of Subsistence, in cooperation with the Sun'aq Tribe of Kodiak. No hunting or egg gathering for Arctic terns, Aleutian terns, mew gulls, and emperor geese is allowed for the Kodiak Island Roaded Area Registration Permit Hunt. The Kodiak Island Roaded Area consists of that portion of Kodiak Island (including exposed tidelands) south of a line from Termination Point along the north side of Cascade Lake to Anton Larsen Bay and east of a line from Crag Point to the west end of Saltery Cove. Marine waters adjacent to the Kodiak Island Roaded Area within 500 feet from the water's edge are included in the Kodiak Island Roaded Area. The Kodiak Island Roaded

Area does not include islands offshore of Kodiak Island. A registration permit is not required to hunt on lands and waters outside the Kodiak Island Roaded Area.

* * * * *

Shannon A. Estenoz,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–03979 Filed 2–25–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 210219–0028]

RIN 0648–BK18

Fisheries of the Exclusive Economic Zone Off Alaska; Removing the Processing Restriction on Incidentally Caught Squids and Sculpins in the Gulf of Alaska and the Bering Sea and Aleutian Islands Groundfish Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to remove the regulatory restriction that limits processing of squids and sculpins to fishmeal only. This proposed rule is necessary to allow the processing and sale of squids and sculpins as products other than fishmeal and thereby to help prevent waste of the incidental catch of these ecosystem component species. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plans (FMP) for Groundfish of the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands Management Area (BSAI) (Groundfish FMPs), and other applicable laws.

DATES: Submit comments on or before March 29, 2021.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2020–0160, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0160*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the draft Regulatory Impact Review (referred to as the ''Analysis'') and the draft Categorical Exclusion prepared for this proposed rule may be obtained from *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Megan Mackey, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) of the BSAI and GOA under the Groundfish FMPs. The North Pacific Fishery Management Council (Council) prepared the Groundfish FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the Groundfish FMPs appear at 50 CFR parts 600 and 679.

All relevant comments submitted on this proposed rule and received by the end of the comment period (See **DATES**) will be considered by NMFS and addressed in the response to comments in the final rule.

Background

Squids and sculpins are defined in the ecosystem component (EC) category of the Groundfish FMPs. Directed fishing for EC species is prohibited. Incidental catch of squid species is retained in some groundfish fisheries and often utilized to prevent waste. Typically, sculpins are not retained but can be in some circumstances.

The Council's 2017 and 2019 actions to reclassify squids and sculpins, respectively, into the EC category of the Groundfish FMPs were based on the best available scientific information and were consistent with the National Standard guidelines. The Federal rulemakings to implement the Council's actions prohibited the use or sale of incidentally caught squids and sculpins unless processed into fishmeal, in accordance with the regulations governing other EC species (85 FR 41427, July 10, 2020 (sculpin); 83 FR 31460, July 6, 2018 (squid)). The purpose of this action is to provide flexibility for the use of incidentally caught squids and sculpins, thereby reducing the waste of these EC species, and to align the regulations with the long-standing use of incidentally caught squid species as bait.

The following sections of this preamble provide:

- A brief history of the restriction on processing and sale of squids and sculpins,
- The expected effects of and need for this action, and
- A description of the regulatory change proposed in this action.

Brief History of the Restriction on Processing and Sale of Squids and Sculpins

EC species are stocks that a fishery management council (council) or the Secretary of Commerce (Secretary) has determined do not require conservation and management, but desire to list in an FMP in order to achieve ecosystem management objectives (50 CFR 600.305(c)(5) & (d)(13) and 50 CFR 600.310(d)(1)). Retention and personal use of some EC species in the Groundfish FMPs (forage fish, grenadiers, squids, and sculpins) is allowed up to the applicable maximum retainable amount (MRA), which is the proportion or percentage of retained catch of a species closed for directed fishing (incidental catch species) to the retained catch of a species open for directed fishing (basis species) (50 CFR 679.20(e) & (i)). Current Federal regulations at 50 CFR 679.20(i)(4) & (5) prohibit the processing, barter, trade, and sale of EC species in Alaska (forage fish, grenadiers, squids, and sculpins) unless they are processed as fishmeal.

Amendment 96 to the BSAI FMP and Amendment 87 to the GOA FMP (Amendments 96/87) (75 FR 61639, October 6, 2010) established the EC category and designated prohibited species (defined in Table 2b to 50 CFR part 679, to include salmon, steelhead trout, crab, halibut, and herring) and forage fish (defined in Table 2c to 50 CFR part 679 and § 679.20(i)) as EC species in both the Groundfish FMPs.

When Amendments 96/87 were recommended by the Council in 2010, the Council's stated intention was that prohibited species and forage fish would be in the new EC category. Because the retention, processing, and sale of prohibited species and forage fish was not permitted before their placement in the EC category, those restrictions remained in place and unchanged under Amendments 96/87. The Council did not indicate whether it intended that species added to the EC category at a later date would be subject to those same restrictions.

When the Council took action to recommend reclassifying squids in the EC category in 2017, harvesters and processors expected that incidentally caught squids in the groundfish fisheries could be processed and sold as bait, consistent with long-standing and common practice. Similarly, when the Council recommended reclassifying sculpins in the EC category in 2019, there was some interest in exploring food fish markets for incidentally caught sculpins, which have rarely been retained or processed. However, once squids and sculpins were reclassified in the EC category, existing Federal regulations at 50 CFR 679.20(i) applied to all EC species and prohibited the processing, barter, trade, and sale of squids and sculpins as anything other than fishmeal.

In October 2019, the Council initiated an analysis to reconsider the processing and sale restrictions on squids and sculpins in the EC category. No other species in the EC category were considered in this analysis. As a result, processing and sale restrictions will remain in place for prohibited species, forage fish, and grenadiers under this action.

The Expected Effects of and Need for This Action

This action would continue to manage squids and sculpins as EC species in the Groundfish FMPs. Directed fishing of squids and sculpins would continue to be prohibited, and retention of squids and sculpins up to the MRA of 20 percent would continue to be permitted. Recordkeeping and reporting requirements would be maintained. The only proposed change to current regulations would be to remove the processing restrictions limiting processing and sale of squids and sculpins to fishmeal, and include new regulations on allowable fish products for squids and sculpins. Specifically, the proposed regulations would provide that retained catch of squids and sculpins not exceeding the MRA may be sold to a processor or processed into any product form, including (but not limited to) fishmeal, bait, and whole fish/food fish, for sale, barter, or trade. All other regulations pertaining to EC species would remain in place.

This proposed action would allow squid species to be processed as whole bait and be available to local fixed gear fisheries, which may reduce costs for those vessels. While there has never been a significant market for sculpin products, this action would allow for the exploration of potential markets for incidentally caught sculpins up to the MRA.

The potential social impacts of the alternatives on the fishing community are primarily economic in nature. Processing squid species into bait provides some revenue to shore-based processors (see Table 4–5 of the Analysis) and may reduce costs to local fleets, which currently purchase more expensive, imported bait. The potential economic impacts are limited, the potential benefits would be marginal, and no impacts were identified that would create adverse economic impacts on any fishing community or cause any other adverse social impacts.

The Council determined, and NMFS agrees, that this proposed action would provide groundfish harvesters and processors with additional flexibility to conduct their business in an efficient manner by providing them with more options for the processing and sale of incidentally caught squids and sculpins up to the MRA, and would help reduce waste of these incidentally caught species.

Proposed Rule

This proposed rule would remove the regulatory restriction that limits processing of incidentally caught squids and sculpins to fishmeal only, and would allow retained catch of squids and sculpins not exceeding the MRA to be sold to a processor or to be processed into any product form. This proposed rule is necessary to allow the processing and sale of squids and sculpins as products other than fishmeal and to help prevent waste of the incidental catch of these species. To make that change, this proposed rule would revise language in 50 CFR 679.20(i).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Groundfish FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This proposed rule would remove the regulatory restriction that limits processing of squids and sculpins to fishmeal only. The purpose of this action is to allow processing and sale of squids and sculpin products to provide enhanced economic opportunity and to prevent waste of the incidental catch of these species in the BSAI and GOA groundfish fisheries.

Entities that would be directly regulated by this proposed rule include the owners and operators of catcher vessels (CVs), catcher/processor vessels (C/Ps), and motherships in the groundfish fisheries of the BSAI and GOA, and eligible shore-based processing facilities. These are the participants currently regulated by the prohibition at 50 CFR 679.20(i).

In 2018, there were 182 CVs and 3 C/Ps in the BSAI, 756 CVs and 3 C/Ps in the GOA, and three motherships that met the definition of small entities. There also may be one or more shore-based processors that could be considered small entities because the processing company and its affiliates, worldwide, may employ fewer than 750 people. However, total employment numbers of processing companies and their affiliates, worldwide, are not available to make that small entity threshold determination. Based on the scope of this action, impacts to small, directly regulated entities are expected to be neutral or beneficial if the entities decide to use the flexibility this rule affords to process squids and sculpins into product forms in addition to fishmeal.

As described above, this action does not place any new regulatory burden on groundfish fishery participants. Instead, it allows increased flexibility for the processing and sale of squids and sculpins. For all of the reasons described above, this proposed action is not expected to have a significant economic impact on a substantial number of the small entities directly regulated by this proposed action. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

Regulatory Impact Review

A Regulatory Impact Review was prepared to assess the costs and benefits of available regulatory alternatives. The Council recommended and NMFS proposes these regulations based on those measures that maximize net benefits to the Nation. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Paperwork Reduction Act

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 22, 2021.

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.20, revise paragraph (i) to read as follows:

§ 679.20 General limitations.

* * * * *

(i) *Forage fish, grenadiers, squids, and sculpins*—(1) *Definition.* See Table 2c to this part.

(2) *Applicability.* The provisions of this paragraph (i) apply to all vessels fishing for groundfish in the BSAI or GOA, and to all vessels processing groundfish harvested in the BSAI or GOA.

(3) *Closure to directed fishing.* Directed fishing for forage fish, grenadiers, squids, and sculpins is prohibited at all times in the BSAI and GOA.

(4) *Limits on sale, barter, trade, and processing of forage fish and grenadiers.* The sale, barter, trade, or processing of forage fish and grenadiers is prohibited, except as provided in paragraph (i)(5) of this section.

(5) *Allowable fishmeal production of forage fish and grenadiers.* Retained catch of forage fish or grenadiers not exceeding the maximum retainable amount may be processed into fishmeal for sale, barter, or trade.

(6) *Allowable fish products for squids and sculpins.* Retained catch of squids and sculpins not exceeding the maximum retainable amount may be sold to a processor or processed into any product form, including (but not limited to) fishmeal, bait, and whole fish/food fish, for sale, barter, or trade.

* * * * *

[FR Doc. 2021–03900 Filed 2–25–21; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 86, No. 37
Friday, February 26, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Freedom of Information/Privacy Act Requests

AGENCY: U.S. Agency for International Development.

ACTION: Notice of information collection renewal.

SUMMARY: U.S. Agency for International Development (USAID), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. Comments are requested concerning whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information collected; and ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: Interested persons are invited to submit written comments regarding the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), 725 7th Street NW, Washington, DC 20543. Attention: Desk Officer for USAID.

FOR FURTHER INFORMATION CONTACT: Alecia S. Sillah, Supervisory FOIA Team Lead, Bureau for Management, Office of Management Services, Information and Records Division, U.S. Agency for International Development, Washington DC 20523–2701; email: *foia@usaid.gov;* tel. 202–916–4660.

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of this collection is to enable the U.S. Agency for International Development to locate applicable records and to respond to requests made under the Freedom of Information Act and the Privacy Act of 1974. Information includes sufficient personally identifiable information and/or source documents as applicable. Failure to provide the required information may result in no action being taken on the request. Authority to collect this information is contained in 5 U.S.C. 552, 5 U.S.C. 552a, and 22 CFR 212-Subpart M.

II. Method of Collection

Paper.

III. Data

Title: Certification of Identity.
OMB Number: OMB 0412–0589.
Form Number: AID Form 507–1.
Title: Certification of Identity.
Type of Review: Renewal.
Affected Public: Individuals.
Estimated Number of Respondents: 600.
Estimated Total Annual Burden Hours: 9,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of USAID, including whether the information collected has practical utility; (2) the accuracy of USAID's estimate of the burden (including both hours and cost) 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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. The comments will also become a matter of public record.

Dated: February 23, 2021.

Alecia S. Sillah,

Supervisory FOIA Team Lead, Bureau for Management, Office of Management Services, Information and Records Division, U.S. Agency for International Development.

[FR Doc. 2021–04053 Filed 2–25–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document Number AMS–SC–20–0092]

Virtual Meeting of the Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), is announcing a meeting of the Fruit and Vegetable Industry Advisory Committee (Committee). The meeting is being convened to examine the full spectrum of fruit and vegetable industry issues and provide recommendations and ideas to the Secretary of Agriculture on how USDA can tailor programs and services to better meet the needs of the U.S. produce industry.

DATES: The FVIAC will meet via webinar (virtually) on Tuesday, April 06, 2021, from 10:00 a.m. to 5:00 p.m. Eastern Time (ET). The FVIAC will hear public comments during the webinar on Tuesday, April 06, 2021, from 11:00 a.m. to 1:00 p.m. Eastern Time (ET). The deadline to submit written comments and/or sign up for oral comments is 11:59 p.m. ET, March 16, 2021.

ADDRESSES: The webinar for the meeting and public comment period can be accessed via the internet and/or phone. Access information will be available on the AMS website prior to each event. Detailed information can be found at *https://www.ams.usda.gov/about-ams/facas-advisory-councils/fviac.*

FOR FURTHER INFORMATION CONTACT: Darrell Hughes, Designated Federal Officer, Fruit and Vegetable Industry Advisory Committee, USDA–AMS-Specialty Crops Program, 1400 Independence Avenue SW, Suite 1575,

STOP 0235, Washington, DC 20250–0235; Telephone: (202) 378–2576; email: *SCPFVIAC@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), the Secretary of Agriculture (Secretary) established the Committee in 2001 to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the fruit and vegetable industry's needs.

The AMS Deputy Administrator for the Specialty Crops Program serves as the Committee's Executive Secretary, leading the effort to administer the Committee's activities. Representatives from USDA mission areas and other government agencies affecting the fruit and vegetable industry are periodically called upon to participate in the Committee's meetings as determined by the Committee. AMS is giving notice of the Committee meeting to the public so that they may participate and present their views. The meeting is open to the public.

Agenda items may include, but are not limited to, welcome and introductions, administrative matters, consideration of topics for potential working group discussion and proposal, and presentations by subject matter experts as requested by the Committee. Please check the FVIAC website for a final agenda on Monday, April 05, 2021, via *https://www.ams.usda.gov/about-ams/facas-advisory-councils/fviac.*

Public Comments: Comments should address specific topics noted on the meeting agenda.

Written Comments: Written public comments will be accepted on or before 11:59 p.m. ET on March 16, 2021, via *http://www.regulations.gov:* Document # AMS–SC–20–0092. Comments submitted after this date will be provided to AMS, but the Committee may not have adequate time to consider those comments prior to the meeting. AMS's Specialty Crop Program strongly prefers that comments be submitted electronically. However, written comments may also be submitted (*i.e.,* postmarked) via mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section by or before the deadline.

Oral Comments: The Committee is providing the public an opportunity to provide oral comments and will accommodate as many individuals and organizations as time permits. Persons or organizations wishing to make oral comments must pre-register by 11:59 p.m. ET, March 16, 2021, and can register for only one speaking slot. Instructions for registering and participating in the meeting can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section by or before the deadline.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under the **FOR FURTHER INFORMATION CONTACT** section. Determinations for reasonable accommodation will be made on a case-by-case basis.

Dated: February 23, 2021.

Cikena Reid,

USDA Committee Management Officer, White House Liaison Office, Office of the Secretary.

[FR Doc. 2021–04048 Filed 2–25–21; 8:45 am]

BILLING CODE 3410–02–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meetings of the Maine Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of public meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the Maine State Advisory Committee to the Commission will hold virtual meetings on the third Thursdays on the following months: March 18, April 15 and May 20, 2021 at 12:00 p.m. (ET) for the purpose of reviewing and writing the report on for its digital equity project.

DATES: March 18, April 15, and May 20, 2021, Thursday at 12:00 p.m. (ET):

- *To join by web conference: https://bit.ly/3ombRrt*
- *To join by phone only, dial 1–800–360–9505; Access code:* 199 929 4603

FOR FURTHER INFORMATION CONTACT: Barbara de La Viez at *bdelaviez@usccr.gov* or by phone at (202) 539–8246.

SUPPLEMENTARY INFORMATION: These meetings are available to the public through the WebEx link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing. may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided for these meetings.

Members of the public are entitled to make comments during the open period at the end of the meetings. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Barbara de La Viez at *bdelaviez@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (202) 539–8246. Records and documents discussed during the meetings will be available for public viewing as they become available at *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

Thursdays—March 18, April 15 and May 20, 2021 at 12:00 p.m. (ET)

I. Welcome and Roll Call
II. Report Writing: Digital Equity in Maine
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: February 22, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–03973 Filed 2–25–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–893–001; A–400–001]

Silicon Metal From Bosnia and Herzegovina and Iceland: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances for Iceland

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of silicon metal from Bosnia and Herzegovina (Bosnia) and Iceland are being, or are likely to be, sold in the United States at less than fair value (LTFV) during the period of investigation April 1, 2019, through March 31, 2020.

DATES: Applicable February 26, 2021.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer (Bosnia) and Emily Halle (Iceland), AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3860 and (202) 482–0176, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 2020, Commerce published in the **Federal Register** the *Preliminary Determinations* of sales at LTFV relating to imports of silicon metal from Bosnia and Iceland.[1] We invited interested parties to comment on the *Preliminary Determinations.* A summary of the events that occurred since Commerce published the *Preliminary Determinations,* as well as a full discussion of the issues raised by parties for these final determinations, may be found in the Issues and Decision Memoranda.[2]

Scope of the Investigations

The product covered by these investigations is silicon metal from Bosnia and Iceland. For a full description of the scope of these investigations, *see* the ''Scope of the Investigations'' in Appendix I of this notice.

Scope Comments

As stated in the *Preliminary Determinations,* no interested parties commented on the scope of the investigations as it appeared in the *Initiation Notice.*[3] Accordingly, the scope of the investigations remains the same as it appeared in the *Initiation Notice. See* Appendix I of this notice.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties in these investigations are addressed in the Issues and Decision Memoranda. Lists of the issues addressed in the Issues and Decision Memoranda are attached to this notice as Appendices II and III. The Issues and Decision Memoranda are public documents and are 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, complete versions of the Issues and Decision Memoranda can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memoranda are identical in content.

Changes Since the Preliminary Determinations

Based on our analysis of the comments received, we made no changes to the rates assigned in the *Preliminary Determinations.* For further discussion, *see* the Issues and Decision Memoranda.[4]

Use of Adverse Facts Available

There is one mandatory respondent in each investigation: R–S Silicon D.O.O. (Bosnia) and PCC Bakki Silicon hf (Iceland). These companies failed to cooperate in the Bosnia and Iceland investigation, respectively. Therefore, in the *Preliminary Determinations,* pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), Commerce assigned R–S Silicon D.O.O. and PCC Bakki Silicon hf rates based on adverse facts available (AFA). There is no new information on the record that would cause us to revisit our determinations to apply AFA to these companies. Accordingly, we continue to find that the application of AFA pursuant to sections 776(a) and (b) of the Act is warranted.

Final Affirmative Determination of Critical Circumstances for Iceland

In accordance with section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), Commerce preliminarily found that critical circumstances exist with respect to imports of silicon metal exported by PCC Bakki Silicon hf and all other producers/exporters from Iceland.[5] Our determination of critical circumstances is unchanged for the final determination. Accordingly, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206, we continue to find that critical circumstances exist for PCC Bakki Silicon hf and all other producers/exporters from Iceland.

All-Others Rate

With respect to Bosnia, as discussed in the *Preliminary Determinations,* Commerce based the selection of the all-others rate on the dumping margin calculated based on a price-to-constructed value comparison provided in the *Initiation Notice,*[6] in accordance with section 735(c)(5)(B) of the Act. We made no changes to the selection of this rate for the final determination.[7]

With respect to Iceland, as discussed in the *Preliminary Determinations,* Commerce based the selection of the all-others rate on the simple average of the price-to-price dumping margins provided in the *Initiation Notice,*[8] in accordance with section 735(c)(5)(B) of the Act. We made no changes to the selection of this rate for the final determination.[9]

Final Determinations

The final estimated weighted-average dumping margins are as follows:

Exporter/producer	Dumping margin (percent)
Bosnia and Herzegovina	
R–S Silicon D.O.O	21.41
All Others	21.41
Iceland	
PCC Bakki Silicon hf	47.54
All Others	37.83

Disclosure

The estimated dumping margin assigned to the mandatory respondents in these investigations are based on AFA. As we made no changes to these margins since the *Preliminary Determinations,* and because we are relying on rates established in the initiation phase of these proceedings, no disclosure of calculations is necessary for these final determinations.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for the final determination for Bosnia, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend

[1] *See Silicon Metal from Bosnia and Herzegovina and Iceland: Preliminary Affirmative Determinations of Sales at Less Than Fair Value,* 85 FR 80009 (December 11, 2020) (*Preliminary Determinations*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memoranda, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Silicon Metal from Bosnia and Herzegovina,'' and ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Silicon Metal from Iceland,'' both dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memoranda).

[3] *See Silicon Metal from Bosnia and Herzegovina, Iceland, and Malaysia: Initiation of Less-Than-Fair-Value Investigations,* 85 FR 45177 (July 27, 2020) (*Initiation Notice*); *see also Preliminary Determinations,* 85 FR at 80009.

[4] *See* Issues and Decision Memoranda.

[5] *See Preliminary Determinations,* 85 FR at 80010. Commerce only received a critical circumstances allegation with respect to Iceland.

[6] *See Initiation Notice* and AD Investigation Initiation Checklist: Silicon Metal from Bosnia and Herzegovina, dated July 20, 2020.

[7] *See Preliminary Determination,* 85 FR at 80010.

[8] *See Initiation Notice* and AD Investigation Initiation Checklist: Silicon Metal from Iceland, dated July 20, 2020.

[9] *See Preliminary Determination,* 85 FR at 80010.

liquidation of all entries of silicon metal, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after December 11, 2020, the date of publication in the **Federal Register** of the affirmative *Preliminary Determinations.*

In accordance with section 733(e)(2)(A) of the Act, suspension of liquidation of silicon metal from Iceland, as described in the ''Scope of the Investigations'' in Appendix I, shall continue to apply to unliquidated entries of silicon metal exported by PCC Bakki and all other producers/exporters from Iceland that entered, or were withdrawn from warehouse, for consumption on or after September 12, 2020, which is 90 days prior to the date of publication of the *Preliminary Determinations.*

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin as follows: (1) The cash deposit rate for the companies listed in the table above will be equal to the company-specific estimated weighted-average dumping margin identified for each company in the table; (2) if the exporter is not a company identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determinations of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determinations as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of silicon metal from Bosnia and Iceland no later than 45 days after these final determinations. If the ITC determines that such injury does not exist, these proceedings will be terminated, and all cash deposits will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue antidumping duty orders directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These determinations are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: February 22, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigations

The scope of these investigations covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of these investigations.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

Appendix II

List of Topics Discussed in the Bosnia Issues and Decision Memorandum

I. Summary
II. Background
III. Discussion of the Issue
  Comment: Whether Commerce Should Assign the Highest Original Petition Margin as Adverse Facts Available
IV. Recommendation

Appendix III

List of Topics Discussed in the Iceland Issues and Decision Memorandum

I. Summary
II. Background
III. Final Affirmative Determination of Critical Circumstances
IV. Discussion of the Issue
  Comment: Whether Commerce Should Apply the Highest Petition Margin as Adverse Facts Available
V. Recommendation

[FR Doc. 2021–04003 Filed 2–25–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–826]

Certain Hot-Rolled Steel Flat Products From the Republic of Turkey: Rescission of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Turkey (Turkey) covering the period of review (POR) October 1, 2019, through September 30, 2020, based on the timely withdrawal of the request for review.

DATES: Applicable February 26, 2021.

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, 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) 482–2316.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2020, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on hot-rolled steel [1] from Turkey for the POR.[2] On October 30, 2020, ArcelorMittal USA LLC, Nucor Corporation, SSAB

[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 Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 85 FR 61926 (October 1, 2020).

Enterprises, LLC, Steel Dynamics, Inc., and United States Steel Corporation (collectively, the petitioners) timely requested an administrative review of the antidumping duty order with respect to fourteen producers and/or exporters.[3] Commerce received no other requests for an administrative review of the antidumping duty order.

On December 8, 2020, pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), we initiated this administrative review of the *Order* covering fourteen producers and/or exporters of the subject merchandise.[4] On January 4, 2021, the petitioners timely withdrew their request for review in its entirety.[5]

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. As noted above, the petitioners withdrew their request for review within 90 days of the publication date of the *Initiation Notice.* No other parties requested an administrative review of the *Order.* Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review in its entirety.

Assessment Rates

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of hot-rolled steel from Turkey at a rate equal to the cash deposit rate of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the POR, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) 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 double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: February 22, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–03998 Filed 2–25–21; 8:45 am]

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[3] *See* Petitioners' Letter, ''Hot-Rolled Steel Flat Products from Turkey—Petitioners' Request for 2019/2020 Administrative Review,'' dated October 30, 2020.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 78990 (December 8, 2020) (*Initiation Notice*). We released U.S. Customs and Border Protection (CBP) import data to eligible parties. *See* Memorandum, ''Release of U.S. Customs Entry Data for Respondent Selection,'' dated December 8, 2020. Agir Haddecilik A.S., Habaş Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S., Toscelik Profil ve Sac End. A.S., a/k/a Toscelik Profile and Sheet Ind. Co. and Tosyali Holding (collectively, Toscelik), and Erdemir Group (Eregli Demir ve Celik Fabrikalari T.A.S. and Iskenderun Iron and Steel Works Ltd. a/k/a/ Iskenderun Demir ve Celik A.S.) filed no shipment certifications. *See* Agir's Letter, ''Hot Rolled Steel Flat Products, A–489–826: Antidumping Duty Administrative Review (10/1/19–9/30/20),'' dated December 17, 2020, *see also* Habas' Letter, ''Hot-Rolled Steel Flat Products from Turkey; Habas No Shipment Letter,'' dated December 30, 2020; Toscelik's Letter, ''Hot-Rolled Steel Flat Products from Turkey: Toscelik No Shipments Letter,'' dated December 30, 2020; and Erdemir Group's Letter, ''Hot-Rolled Steel Flat Products from Turkey: Erdemir No-Shipments letter,'' dated January 4, 2021.

[5] *See* Petitioners' Letter, ''Hot-Rolled Steel Flat Products from Turkey—Withdrawal of Request for Administrative Review,'' dated January 4, 2021.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–813]

Citric Acid and Certain Citrate Salts From Belgium: Final Results of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that S.A. Citrique Belge N.V. (Citrique Belge), a producer/exporter of citric acid and certain citrate salts (citric acid) from Belgium, did not sell subject merchandise at prices below normal value during the period of review (POR) January 8, 2018, through June 30, 2019.

DATES: Applicable February 26, 2021.

FOR FURTHER INFORMATION CONTACT: Stephanie Berger, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2483.

SUPPLEMENTARY INFORMATION:

Background

On November 9, 2020, Commerce published the *Preliminary Results.*[1] This review covers one producer/exporter of the subject merchandise, Citrique Belge. We invited parties to comment on the *Preliminary Results.* No party submitted comments. Accordingly, the final results remain unchanged from the *Preliminary Results.*

Scope of the Order

The merchandise covered by this order includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend.

The scope also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the

[1] *See Citric Acid and Certain Citrate Salts from Belgium: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019,* 85 FR 71306 (November 9, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

production of citric acid, sodium citrate, and potassium citrate.

The scope includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively.

The scope does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product.

Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and, if included in a mixture or blend, 3824.99.9295 of the HTSUS. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.99.9295 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Methodology

Commerce conducted this administrative review in accordance with sections 751(a)(1) and (2) of the Tariff Act of 1930, as amended (the Act).

Final Results of the Review

As a result of this review, Commerce determines that a weighted-average dumping margin of 0.00 percent exists for entries of subject merchandise that were produced and exported by Citrique Belge during the POR.

Assessment Rates

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review, in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Because we calculated a zero margin for Citrique Belge in the final results of this review, we intend to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Consistent with its recent notice,[2] 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 these final results for all shipments of citric acid from Belgium entered, or withdrawn from warehouse, for consumption on or after the date of publication provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Citrique Belge will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review or the original less-than-fair-value investigation but the manufacturer is, then the cash deposit rate will be the rate established for the most recently completed segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.30 percent, the all-others rate established in the less-than-fair-value investigation.[3] These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

Normally, Commerce will disclose to the parties in a proceeding the calculations performed in connection with a final results of review within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, here, Commerce made no adjustments to the margin calculation methodology used in the *Preliminary Results;* therefore, there are no calculations to disclose for the final results.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of 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 the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: February 22, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–04051 Filed 2–25–21; 8:45 am]

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[2] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 3995 (January 15, 2021).

[3] *See Citric Acid and Certain Citrate Salts from Belgium, Colombia and Thailand: Antidumping Duty Orders,* 83 FR 35214 (July 25, 2018).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–842]

Prestressed Concrete Steel Wire Strand From the Republic of Turkey: Notice of Correction to the Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is issuing a correction to a previously published **Federal Register** notice pertaining to the final determination of sales at less than fair value (LTFV) of prestressed concrete steel wire strand (PC strand) from the Republic of Turkey (Turkey).

DATES: Applicable December 11, 2020.

FOR FURTHER INFORMATION CONTACT: David Goldberger, AD/CVD Operations Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4136.

SUPPLEMENTARY INFORMATION: On December 11, 2020, Commerce published in the **Federal Register** the notice of the final determination of sales at LTFV of PC strand from Turkey and seven other countries.[1] In the *Final Determinations,* Commerce inadvertently failed to publish the adjusted cash deposit rates for the Turkey LTFV investigation after accounting for export subsidies in the companion countervailing duty investigation. The adjusted rates, along with the dumping margins, are included in the table below:

Exporter/producer	Dumping margin (percent)	Cash deposit rate [2]
Turkey:		
Celik Halat ve Tel Sanayi A.S	53.65	44.60
Güney Çelik Hasir ve Demir	53.65	44.60
All Others	53.65	44.60

We are hereby correcting the *Final Determinations* to include the adjusted cash deposit rates listed above. Commerce intends to issue instructions to Customs and Border Protection (CBP) to correct the cash deposit rates applicable to entries of PC strand from Turkey which were entered, or withdrawn from warehouse, for consumption during the period December 11, 2020 through January 31, 2021 (*i.e.,* the day before the date of publication of the antidumping duty order in the **Federal Register**, which included the adjusted cash deposit rate).[3] Commerce also intends to issue instructions to CBP to authorize refunds of cash deposits, if requested by the importer. The refund amount will be calculated by determining the difference between the amount of cash deposits paid as a result of the application of the rates listed in the *Final Determinations* and the amount due as a result of the application of the corrected final determination rate.

This notice serves as a correction and is published in accordance with section 777(i) of the Tariff Act of 1930, as amended.

Dated: February 22, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–03999 Filed 2–25–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–834–811]

Silicon Metal From the Republic of Kazakhstan: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of silicon metal from the Republic of Kazakhstan (Kazakhstan).

DATES: Applicable February 26, 2021.

FOR FURTHER INFORMATION CONTACT: Justin Neuman, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0486.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2020, Commerce published the *Preliminary Determination* of this countervailing duty (CVD) investigation, which also aligned the final determination of this CVD investigation with the final determinations in the companion antidumping duty investigations of silicon metal from Bosnia and Herzegovina and Iceland.[1] A summary of the events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.[2] The Issues and 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 *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation is January 1, 2019, through December 31, 2019.

[1] *See Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, the Netherlands, Saudi Arabia, Taiwan, the Republic of Turkey, and the United Arab Emirates: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Critical Circumstances Determinations, in Part,* 85 FR 80001 (December 11, 2020) (*Final Determinations*).

[2] The cash deposit rates for Celik Halat ve Tel Sanayi A.S., Güney Çelik Hasir ve Demir (Güney Çelik), and the companies covered by the ''All Others'' rate are equal to the petition rate (53.65 percent) adjusted for the lowest rate of export subsidies found for any company in the most recently-completed segment in the companion countervailing duty proceeding, *i.e,* Güney Çelik's total export subsidies rate of 9.05 percent. *See Prestressed Concrete Steel Wire Strand from the Republic of Turkey: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination,* 85 FR 80005 (December 11, 2020), and accompanying Issues and Decision Memorandum at 12–16; and *Prestressed Concrete Steel Wire from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part,* 85 FR 59287 (September 21, 2020), and accompanying Preliminary Decision Memorandum at 18–20, 25–27, and 31–33.

[3] *See Prestressed Concrete Steel Wire Strand from Argentina, Colombia, Egypt, the Netherlands, Saudi Arabia, Taiwan, the Republic of Turkey, and the United Arab Emirates: Antidumping Duty Orders,* 86 FR 7703, 7704 (February 1, 2021).

[1] *See Silicon Metal from the Republic of Kazakhstan: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination,* 85 FR 78122 (December 3, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Determination of the Countervailing Duty Investigation of Silicon Metal from the Republic of Kazakhstan,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Scope of the Investigation

The product covered by this investigation is silicon metal from Kazakhstan. For a full description of the scope of this investigation, *see* the ''Scope of the Investigation'' in Appendix I.

Scope Comments

As stated in the *Preliminary Determination,* no interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.*[3] Accordingly, the scope of the investigation remains the same as it appeared in the *Initiation Notice. See* Appendix I of this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties is attached to this notice at Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[4] For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Commerce notes that, in making these findings, it relied on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[5] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Issues and Decision Memorandum.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we attempted to take additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.[6]

Pursuant to section 776(a)(2)(D) of the Act, in situations where information has been provided but the information cannot be verified in accordance with section 782(i) of the Act, Commerce may use ''facts otherwise available'' on the record in reaching the applicable determination. Accordingly, because Commerce was unable to verify certain information, and because that inability to verify information, or gather information in lieu of an on-site verification, was a result of a respondent failing to act to the best of its ability, in accordance with section 776(b) of the Act, we have applied an adverse inference in using facts otherwise available. in making our final determination.[7]

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties and the results of verification, we made certain changes to the subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

As discussed in the *Preliminary Determination,* Commerce based the selection of the all-others rate on the countervailable subsidy rate established for the mandatory respondents in accordance with section 705(c)(5)(A)(ii) of the Act.[8] Because we are adjusting the final subsidy rate applicable to the mandatory respondents, we are making similar changes to the all-others rate as well.[9]

Final Determination

In accordance with section 705(c)(1)(B)(i)(I) of the Act, Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Tau-Ken Temir LLP and JSC NMC Tau-Ken Samruk[10] ..	160.00
All Others	160.00

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of the public announcement or, where there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce applied adverse facts available (AFA) to the individually-examined company Tau-Ken Temir LLP/JSC NMC Tau-Ken Samruk in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on information provided by the Government of Kazakhstan, there are no calculations to disclose.

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection to suspend liquidation of entries of subject merchandise from Kazakhstan that were entered, or withdrawn from warehouse, for consumption on or after December 3, 2020, the date of publication of the *Preliminary Determination* in the **Federal Register**.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and require a cash deposit of estimated countervailing duties for entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of

[3] *See Silicon Metal from the Republic of Kazakhstan: Initiation of Countervailing Duty Investigation,* 85 FR 45173 (July 27, 2020) (*Initiation Notice*); *see also Preliminary Determination,* 85 FR at 78122.

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] *See* sections 776(a) and (b) of the Act.

[6] *See* Commerce's Letter, ''Countervailing Duty Investigation of Silicon Metal from the Republic of Kazakhstan: Supplemental Questionnaire in Lieu of Verification,'' dated December 7, 2020.

[7] *See* Issues and Decision Memorandum at Comments 8 and 11.

[8] *See Preliminary Determination,* 85 FR at 78122–23.

[9] *See* Issues and Decision Memorandum at Comment 11.

[10] As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Tau-Ken Temir LLP and JSC NMC Tau-Ken Samruk: Silicon Metal LLP, Metallurgical Combine KazSilicon LLP, National Welfare Fund ''Samruk-Kazyna'' JSC, ''Ekibastuz GRES–2 station'' JSC, and JSC KEGOC.

silicon metal from Kazakhstan. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured or threatened with material injury. In addition, we are making available to the ITC all non-privileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: February 22, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The scope of this investigation covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of this investigation.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Use of Facts Otherwise Available and Adverse Inferences
V. Subsidies Valuation
VI. Analysis of Programs
VII. Analysis of Comments
Comment 1: Whether the Company Respondents' Initial Questionnaire Response Should be Accepted
Comment 2: Whether the Administrative Procedures Act (APA) Supports Accepting the Company Respondents' Questionnaire Response
Comment 3: Whether Commerce Should Apply Facts Available (FA) Rather Than Adverse Facts Available (AFA) in Establishing the Countervailing Duty (CVD) Rate
Comment 4: Whether the Petitioners' Allegations of a Conflict-of-Interest Warrant the Application of FA Rather Than AFA
Comment 5: Whether Petitioners' Allegations of a Conflict-of-Interest Create an Actionable Violation of Antitrust Laws
Comment 6: Whether the Petitioners' Alleged Violation of a Confidentiality Agreement Warrants the Application of FA Rather Than AFA
Comment 7: Whether the AFA Rate Applied in the Preliminary Determination Is Warranted
Comment 8: Whether Commerce Should Rely on Information Provided by the Government of Kazakhstan in Determining the Countervailability of Programs
Comment 9: Whether Commerce Is Required To Exhaust Administrative Remedies
Comment 10: Whether Commerce Imposed Provisional Measures Without Adequate Consideration
Comment 11: Whether Commerce Should Find That Two Additional Programs Are Countervailable
VIII. Recommendation

[FR Doc. 2021–04032 Filed 2–25–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA863]

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops will be held in April, May, and June of 2021. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted during 2021 and will be announced in a future notice.

DATES: The Atlantic Shark Identification Workshops will be held on April 16, May 6, and June 17, 2021. The Safe Handling, Release, and Identification Workshops will be held on April 2, April 23, May 6, May 19, June 2, and June 29, 2021. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Philadelphia, PA; Fort Lauderdale, FL; and Boston, MA. The Safe Handling, Release, and Identification Workshops will be held in Palm Coast, FL; Warwick, RI; Kenner, LA; Kitty Hawk, NC; Panama City, FL; and Philadelphia, PA. See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

FOR FURTHER INFORMATION CONTACT: Rick Pearson by phone: (727) 824–5399, or by email at *rick.a.pearson@noaa.gov.*

SUPPLEMENTARY INFORMATION: The workshop schedules, registration information, and a list of frequently asked questions regarding the Atlantic Shark Identification and Safe Handling, Release, and Identification workshops are posted online at: *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops* and *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops.*

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop are issued a

certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for three years. Thus, certificates that were initially issued in 2018 will be expiring in 2021. Approximately 180 free Atlantic Shark Identification Workshops have been conducted since October 2008.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit that first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, trucks or other conveyances that are extensions of a dealer's place of business must possess a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate.

Workshop Dates, Times, and Locations

1. April 16, 2021, 12 p.m.–4 p.m., Hampton Inn Philadelphia International Airport, 8600 Bartram Avenue, Philadelphia, PA 19153.
2. May 6, 2021, 12 p.m.–4 p.m., Hampton Inn Cypress Creek, 720 East Cypress Creek Road, Fort Lauderdale, FL 33334.
3. June 17, 2021, 12 p.m.–4 p.m., Embassy Suites Boston at Logan Airport, 207 Porter Street, Boston, MA 02128.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at *ericssharkguide@yahoo.com* or at (386) 852–8588. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited-access and swordfish limited-access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for 3 years. Certificates issued in 2018 will be expiring in 2021. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 370 free Safe Handling, Release, and Identification Workshops have been conducted since 2006.

In addition to certifying vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits that uses longline or gillnet gear.

Workshop Dates, Times, and Locations

1. April 2, 2021, 9 a.m.–5 p.m., Hilton Garden Inn, 55 Town Center Boulevard, Palm Coast, FL 32164.
2. April 23, 2021, 9 a.m.–5 p.m., Hilton Garden Inn, 1 Thurber Street, Warwick, RI 02886.
3. May 6, 2021, 9 a.m.–5 p.m., Hilton—New Orleans Airport, 901 Airline Drive, Kenner, LA 70062.
4. May 19, 2021, 9 a.m.–5 p.m., Hilton Garden Inn, 5353 North Virginia Dare Trail, Kitty Hawk, NC 27949.
5. June 2, 2021, 9 a.m.–5 p.m., Hilton Garden Inn, 1101 US Highway 231, Panama City, FL 32405.
6. June 29, 2021, 9 a.m.–5 p.m., Embassy Suites by Hilton Philadelphia Airport, 9000 Bartram Avenue, Philadelphia, PA 19153.

Registration

To register for a scheduled Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification;
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification; and
- Vessel operators must bring proof of identification.

Workshop Objectives

The Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/

or hooked protected species, such as sea turtles, marine mammals, smalltooth sawfish, Atlantic sturgeon, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent additional regulations on these fisheries in the future.

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

Dated: February 23, 2021.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2021–04018 Filed 2–25–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA897]

Marine Mammals; File Nos. 22306, 23675, 24334, and 24378

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

ACTION: Notice; receipt of applications.

SUMMARY: Notice is hereby given that four applicants have applied in due form for a permit to conduct scientific research on 58 species of marine mammals. The species taken during research activities may include the following endangered or threatened cetaceans: Beluga whale (*Delphinapterus leucas*); blue whale (*Balaenoptera musculus*); bowhead whale (*Balaena mysticetus*); fin whale (*B. physalus*); gray whale (*Eschrichtius robustus*); humpback whale (*Megaptera novaeangliae*); killer whale (*Orcinus orca*); North Pacific right whale (*Eubalaena japonica*); sei whale (*Balaenoptera borealis*); sperm whale (*Physeter microcephalus*); and Southern right whale (*E. australis*); and the following endangered or threatened pinnipeds: Bearded seal (*Erignathus barbatus*); Guadalupe fur seal (*Arctocephalus townsendi*); ringed seal (*Phoca hispida spp.);* and Steller sea lion (*Eumetopias jubatus*). See the applications for a complete list of species by stock or listing unit.

DATES: Written, telefaxed, or email comments must be received on or before March 29, 2021.

ADDRESSES: The applications and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting applicable File No. from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on these applications should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on the application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D. (File Nos. 22306 and 23675), Amy Hapeman (File No. 24334), or Courtney Smith, Ph.D. (File No. 24378), (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

File No. 22306: NMFS, Southwest Fisheries Science Center, 8901 La Jolla Shores Drive, La Jolla, California 92037, (Responsible Party: David Weller, Ph.D.), proposes to conduct research on 48 species of cetaceans and 6 species of pinnipeds in U.S. and international waters of the Pacific and Southern Oceans. The objectives of the research are to monitor and understand trends and population dynamics of marine mammals by collecting data on abundance, distribution, density, survival, immigration/emigration, reproduction, health and condition, movement patterns, dive behavior, acoustics, demography and stock structure. Cetaceans may be taken during vessel and aerial surveys, including unmanned aircraft systems (UAS), for counts, photo-identification, photography, videography, photogrammetry, behavioral observations, passive acoustic recordings, biological sampling (exhaled air, feces, sloughed skin, and skin and blubber biopsies), and tagging (suction-cup and dart/barb). Pinnipeds may be taken during manned and unmanned aerial and ground surveys for counts, photo-identification, photography, videography, photogrammetry, and collection of scat and spew. Marine mammal parts may also be imported, exported, salvaged, or received for analysis and curation. See the application for complete numbers of animals requested by species, life stage, and procedure. The permit is requested for five years.

File No. 23675: Brianna Witteveen, Ph.D., University of Alaska Fairbanks, 118 Trident Way, Kodiak, AK 99615, proposes to conduct research in the North Pacific Ocean in Alaska focusing on nine cetacean species. The objectives of the research are to advance knowledge and improve understanding of the foraging behavior, prey use, and habitat overlap among sympatric cetaceans throughout their habitat. Cetaceans may be taken during vessel surveys for photo-identification, behavioral observations, active acoustic sonar for prey mapping, biological sampling (feces, sloughed skin, predation remains, and skin and blubber biopsies), and suction-cup tagging. Six additional marine mammal species may be unintentionally harassed during research targeting cetaceans. See the application for complete numbers of animals requested by species, life stage, and procedure. The permit is requested for 5 years.

File No. 24334: Alaska Department of Fish and Game, P.O. Box 25526, Juneau, AK 99802, (Responsible Party: Lori Quakenbush, Ph.D.) proposes to conduct research on five whale species in the Bering, Chukchi, and Beaufort seas (U.S. and international waters) adjacent to Alaska. Research topics would include movements, habitat use, migration routes, body condition, predation, stock structure, population abundance, behavior relative to feeding, social interactions, human disturbance, and social structure. Researchers would conduct vessel surveys for tagging (dart/barb, deep implant, suction cup, or dorsal ridge attachments depending on species), biopsy sampling, photo-identification, and UAS surveys for all species. The applicant also requests to conduct manned aerial surveys and captures for tagging with biological sample collection of four beluga whale stocks. The applicant also requests

export and import of skin and blubber for the target species. Non-target seals and beluga whales may be unintentionally harassed, and seals may be incidentally captured during research activities. Up to three unintentional beluga mortalities may occur during captures over the duration of the permit. See the application for complete numbers of animals requested by species, life stage, and procedure. The permit is requested for 5 years.

File No. 24378: The University of Alaska Southeast, 1332 Seward Ave, Sitka, AK 99835 (Responsible Party: Jan Straley) proposes to conduct research on 18 species of cetaceans in Alaska, focusing on three species of large whales. The objective of the research is to further the biological understanding of Alaskan cetaceans by evaluating species abundance, population and stock structure, life history parameters, foraging behavior and prey specialization, social behavior, seasonal movements and migrations, and depredation interactions with longline fishing vessels. Research methods include close approach by vessels and UAS to conduct photo-identification, behavioral observations, underwater photography/video, active acoustic sonar for prey mapping, tagging (suction-cup and dart/barb), biological sampling (prey samples, exhaled air, sloughed skin, feces), and collection of water samples for environmental DNA (eDNA). Some marine mammal parts may be exported for analysis. See the application for complete numbers of animals requested by species, life stage, and procedure. The permit is requested for 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the proposed activities are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 23, 2021.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–04055 Filed 2–25–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA878]

Marine Mammals; File No. 24365

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Paul Ponganis, Ph.D., University of California San Diego, La Jolla, CA 92093–0204, has applied in due form for a permit to conduct research on California sea lions (*Zalophus californianus*).

DATES: Written, telefaxed, or email comments must be received on or before March 29, 2021.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 24365 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 24365 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Sara Young or Dr. Shasta McClenahan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The purpose of this research is to determine the role of physiological responses, oxygen store depletion, and eventual anaerobic metabolism in dive behavior and foraging ecology of California sea lions. On an annual basis, up to 15 adult females will be captured and instrumented to measure physiological responses (heart rate, stroke rate, oxygen depletion, temperature, inspired lung volumes and lactate accumulation) during dives. Two unintentional mortalities are requested annually. Up to 15 pups of the adult females used in the research, may also be marked with a neoprene patch. Take activities for adult animals include: Capture, restraint, anesthesia, internal and external instrumentation, blood sampling, flipper tagging, clipping vibrissae, and weighing, as well as necropsy and salvage of parts from any unintentional mortalities. Research will be conducted on San Nicolas Island, California. Re-captures for instrument removal will occur on San Nicolas Island. Takes of other species annually may include temporary disturbance of 100 harbor seals (*Phoca vitulina*), 200 northern elephant seals (*Mirounga angustirostris*), 4,000 California sea lions (*Zalophus californianus*), and 30 northern fur seals (*Callorhinus ursinus*) during captures. The permit would be valid for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 22, 2021.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–03980 Filed 2–25–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA893]

Marine Mammals; File No. 24395

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Lorrie Rea, Ph.D., University of Alaska Fairbanks, 1764 Tanana Loop ELIF Suite 240, Fairbanks, AK 99775, has applied in due form for a permit to receive, import, and export pinniped parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before March 29, 2021.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 24395 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 24395 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Shasta McClenahan, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to receive, import, and export pinniped parts to study the toxicology, ecology, and physiology of pinnipeds. An unlimited number of samples from up to 1,500 individual pinnipeds of each species, excluding walrus, may be received domestically and imported or exported world-wide on an annual basis. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 22, 2021.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–03981 Filed 2–25–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Admission To Practice and Roster of Registered Patent Attorneys and Agents Admitted To Practice Before the United States Patent and Trademark Office

The United States Patent and Trademark Office (USPTO) 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. The USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on December 23, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

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

Title: Admission to Practice and Roster of Registered Patent Attorneys and Agents Admitted to Practice Before the United States Patent and Trademark Office.

OMB Control Number: 0651–0012.

Form Numbers:

- PTO–107A (Data Sheet—Register of Patent Attorneys and Agents)
- PTO–107R (Reinstatement to the Register)
- PTO–107S (Registration Statement of Patent Attorneys and Agents)
- PTO–158 (Application for Registration to Practice Before the United States Patent and Trademark Office)
- PTO–158A (Application for Registration to Practice Before the United States Patent and Trademark Office Under 37 CFR 11.6(c) by a Foreign Resident)
- PTO 158RA (Reasonable Accommodation)
- PTO–158T (Application for Reciprocal Recognition to Practice in Trademark Matters Before the United States Patent and Trademark Office Under 37 CFR 11.14(c) by a Foreign Resident)
- PTO–1209 (Oath or Affirmation)

Type of Review: Extension and revision of a currently approved information collection.

Number of Respondents: 21,251 respondents per year.

Average Hour per Response: The USPTO estimates that it takes the public approximately 5 minutes (0.08 hours) to 7 hours to complete this information, depending upon the application. This includes the time to gather the necessary information, prepare and maintain the documents, and submit the items to the USPTO.

Estimated Total Annual Respondent Burden Hours: 18,188 hours.

Estimated Total Annual Non-Hour Cost Burden: $875,706.

Needs and Uses: This collection of information is required by 35 U.S.C. 2(b)(2)(D), which permits the United States Patent and Trademark Office (USPTO) to establish regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the USPTO. This statute also permits the USPTO to require information from applicants that shows that they are of good moral character and reputation and have the necessary qualifications to assist applicants with the patent process and to represent them before the USPTO.

This information collection addresses submissions required by the regulations at 37 CFR 1.21, and 11.5–11.11, which set forth the requirements to apply for the examination for registration and to demonstrate eligibility to be a registered attorney or agent before the USPTO, including the fee requirements. The Office of Enrollment and Discipline (OED) collects this information to determine the qualifications of individuals entitled to represent applicants before the USPTO in the preparation and prosecution of applications for a patent. The OED also collects this information to administer and maintain the public roster of attorneys and agents registered to practice before the USPTO. The information in this information collection is used by the USPTO to review applications for the examination for registration and to determine whether an applicant may be added to, or an existing practitioner may remain

on, the Register of Patent Attorneys and Agents.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this 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 information collection or the OMB Control Number 0651–0012.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0012 information request'' in the subject line of the message.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2021–04045 Filed 2–25–21; 8:45 am]

BILLING CODE 1410–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete product(s) to the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before: March 28, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
8415–01–524–5957—Cover, PASGT Helmet, Universal Camouflage, XS/S
8415–01–524–6027—Cover, PASGT Helmet, Universal Camouflage, M/L
8415–01–524–6028—Cover, PASGT Helmet, Universal Camouflage, XL

Designated Source of Supply: Lions Services, Inc., Charlotte, NC; Industries of the Blind, Inc., Greensboro, NC; Mount Rogers Community Services Board, Wytheville, VA; Lions Volunteer Blind Industries, Inc., Morristown, TN

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA W6QK ACC–APG NATICK, NATICK, MA

NSN(s)—Product Name(s):
6645–01–421–6898—Clock, Wall, Slimline, Taupe, 12¾″ Diameter, Quartz
6645–01–421–6901—Clock, Wall, Slimline, Stone Gray, 12¾″ Quartz
6645–01–421–6906—Clock, Wall, Walnut, 16″ Quartz
6645–01–456–6022—Clock, Wall, Slimline, Stone Gray, Custom Logo, 12¾″ Quartz
6645–01–456–6023—Clock, Wall, Walnut, Custom Logo, 16″ Quartz
6645–01–456–6024—Clock, Wall, Slimline, Taupe, Custom Logo, 12¾″ Quartz
6645–01–491–9807—Clock, Wall, Atomic, Bronze, 12¾″ Diameter
6645–01–491–9808—Clock, Wall, Atomic, Bronze, 9¼″ Diameter
6645–01–491–9829—Clock, Wall, 12/24 Hour, Atomic, Bronze, 9¼″ Diameter
6645–01–491–9831—Clock, Wall, Atomic, Black, Custom Logo, 9¼″ Diameter
6645–01–492–0377—Clock, Wall, Atomic, Walnut, 16″ Diameter

Designated Source of Supply: Chicago Lighthouse Industries, Chicago, IL

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR (2, NEW YORK, NY

NSN(s)—Product Name(s):
8415–01–465–4629—Pants, Physical Fitness Uniform, Army, Black, Large/Regular
8415–01–465–4635—Pants, Physical Fitness Uniform, Army, Black, X-Large/Regular
8415–01–465–4636—Pants, Physical Fitness Uniform, Army, Black, XX-Large/Regular
8415–01–465–4638—Pants, Physical Fitness Uniform, Army, Black, XXX-Large/Regular
8415–01–465–4639—Pants, Physical Fitness Uniform, Army, Black, X-Small/Long
8415–01–465–4640—Pants, Physical Fitness Uniform, Army, Black, Small/Long
8415–01–465–4641—Pants, Physical Fitness Uniform, Army, Black, Medium/Long
8415–01–465–4645—Pants, Physical Fitness Uniform, Army, Black, Large/Long
8415–01–465–4647—Pants, Physical Fitness Uniform, Army, Black, X-Large/Long
8415–01–465–4648—Pants, Physical Fitness Uniform, Army, Black, XX-Large/Long
8415–01–465–4652—Pants, Physical Fitness Uniform, Army, Black, XXX-Large/Long
8415–01–465–4860—Pants, Physical Fitness Uniform, Army, Black, X-Small/Short
8415–01–465–4862—Pants, Physical Fitness Uniform, Army, Black, Small/Short
8415–01–465–4864—Pants, Physical Fitness Uniform, Army, Black, Medium/Short
8415–01–465–4865—Pants, Physical Fitness Uniform, Army, Black, Large/Short
8415–01–465–4866—Pants, Physical Fitness Uniform, Army, Black, X-Large/Short
8415–01–465–4867—Pants, Physical Fitness Uniform, Army, Black, XX-Large/Short
8415–01–465–4869—Pants, Physical Fitness Uniform, Army, Black, XXX-Large/Short
8415–01–465–4871—Pants, Physical Fitness Uniform, Army, Black, X-Small/Regular
8415–01–465–4872—Pants, Physical Fitness Uniform, Army, Black, Small/Regular
8415–01–465–4878—Pants, Physical Fitness Uniform, Army, Black, Medium/Regular

Designated Source of Supply: Alphapointe, Kansas City, MO; Georgia Industries for the Blind, Bainbridge, GA; Lions Services, Inc., Charlotte, NC; Industries of the Blind, Inc., Greensboro, NC; Lions Volunteer Blind Industries, Inc., Morristown, TN; San Antonio Lighthouse for the Blind, San Antonio, TX; LC Industries, Inc., Durham, NC; Asso. for the Blind and Visually Impaired-Goodwill Industries of Greater Rochester, Inc., Rochester, NY

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–04009 Filed 2–25–21; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2020–HQ–0015]

Submission for OMB Review; Comment Request

AGENCY: U.S. Army Research Institute for the Behavioral and Social Sciences (ARI), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 29, 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.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: ARI Game Evaluation; OMB Control Number 0702–XXXX.

Type of Request: New collection.

Number of Respondents: 100.

Responses per Respondent: 1.

Annual Responses: 100.

Average Burden per Response: 14 minutes.

Annual Burden Hours: 23.3.

Needs and Uses: The U.S. Army Research Institute for the Behavioral and Social Sciences (ARI) is developing an innovative game-based assessment to evaluate an individual's systems thinking abilities. Systems thinking is important for job success in areas such as cyber security, engineering, and mission planning. As an assessment, the Systems Thinking Abilities game needs to be evaluated to ensure it measures what is intended and relates to performance in jobs that require systems thinking. This Information Collection will follow best practices in assessment development by collecting feedback about the ease of use, clarity, and usability from individuals who complete the Systems Thinking Abilities game and by collecting demographic information about those individuals to ensure they are similar to the intended end users. The game players are freelance workers from Amazon's Mechanical Turk (MTurk) site who will be paid to play the Systems Thinking Abilities game and respond to the questions included in this information collection. Respondents will not be sent invitations to participate, instead they can sign up to participate through the MTurk website. Each participant will complete the Systems Thinking Abilities game, the evaluation questions and the demographic information using his or her computer from a location of his or her choice. The ARI Game Evaluation Form will be linked through the MTurk site and responses will be entered and returned online. Once participants complete their assigned section(s) they will be paid for their time through MTurk. Data will be analyzed following completion of data collection activities.

Evaluation Questions: Participants will respond to a series of multiple choice and open-ended questions to capture their experience with the Systems Thinking Abilities game. These questions are included on the ARI Game Evaluation Form. The collected data will be retrieved and processed by Personnel Decisions Research Institutes (PDRI), a contractor working for ARI. Summary statistics will be generated and the open-ended feedback will be content coded. The information collected on participant feedback will be used to identify modifications needed to the software to improve the clarity or ease of use. Findings will be documented in a technical report.

Demographic Questions: Participants will complete questions through an online survey format regarding demographics and background experiences. Demographic questions include age, gender, ethnicity, race, education attainment, and experience questions related to past experience with computer technology. These questions are included on the ARI Game Evaluation Form. The collected data will be retrieved and processed by PDRI. The demographic information will be documented in a technical report describing the initial testing.

Affected Public: Individuals or households.

Frequency: One-time collection.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: February 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–03992 Filed 2–25–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2020–OS–0090]

Submission for OMB Review; Comment Request

AGENCY: National Defense University, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 29, 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.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: ISMO International Fellows Personal Information Collection; OMB Control Number 0704–XXXX.

Type of Request: Existing collection in use without an OMB Control Number.

Number of Respondents: 109.

Responses per Respondent: 2.
Annual Responses: 218.
Average Burden per Response: 45 minutes.
Annual Burden Hours: 164.
Needs and Uses: This collection is necessary to collect essential personal information on foreign national students attending the National Defense University. The information collected is used to create profiles for the international students that ensures their needs are met as they transition to their time living in the United States as a student. It also helps them secure driving licenses, common access cards, facility identification number, temporary lodging assignment payments, and a defense travel system profile. Their preliminary information, including name, service, past assignments, etc. is collected via email correspondence while they are still in their home country. More sensitive information such as passport information, Date of Birth, Visa # and their FIN are collected either in person or over the WhatsApp messaging service, utilizing their end-to-end encryption. All student information is stored in a database that is only accessible to members of our office.
Affected Public: Individuals or households (Foreign Nationals).
Frequency: Annually.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: February 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–03993 Filed 2–25–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2020–HA–0102]

Submission for OMB Review; Comment Request

AGENCY: The Office of the Assistant Secretary of Defense for Health Affairs, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 29, 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.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Professional Qualifications Medical/Peer Reviewers; CHAMPUS Form 780; OMB Control Number 0720–0005.
Type of Request: Revision.
Number of Respondents: 60.
Responses per Respondent: 1.
Annual Responses: 60.
Average Burden per Response: 20 minutes.
Annual Burden Hours: 20.
Needs and Uses: The information collection requirement is necessary to obtain and record the professional qualifications of medical and peer reviewers utilized within TRICARE®. The form is included as an exhibit in an appeal or hearing case file as evidence of the reviewer's professional qualifications to review the medical documentation contained in the case file.
Affected Public: Businesses or other for-profit.
Frequency: One-time collection.
Respondent's Obligation: Voluntary.
OMB Desk Officer: Mr. James Crowe.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: February 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–03995 Filed 2–25–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice To Reopen Public Scoping for the Homeland Defense Radar in Hawaii Environmental Impact Statement

AGENCY: Missile Defense Agency, Department of Defense (DoD).

ACTION: Notice of intent.

SUMMARY: The Missile Defense Agency (MDA) announces that it is reopening the public scoping period for the Homeland Defense Radar–Hawaii (HDR–H) Environmental Impact Statement (EIS). MDA will use the additional public scoping input to support preparation of the EIS in accordance with the National Environmental Policy Act (NEPA) of 1969.

DATES: MDA invites public comments on the updated scope of the HDR–H EIS during the 45-day public scoping period beginning with publication of this notice in the **Federal Register**. Comments will be accepted on or before April 12, 2021 to ensure their consideration in the Draft EIS analysis.

ADDRESSES: Written comments, statements, and/or concerns regarding the scope of the EIS should be addressed to MDA HDR–H EIS and sent by email to *mda.hdrh.eis@kfs-llc.com*; by facsimile at 256–713–1617; or by U.S. Postal Service to: KFS, LLC, Attn: MDA HDR–H EIS, 303 Williams Ave., Suite 116, Huntsville, AL 35801.

Comments will also be accepted via voicemail by calling 1–888–473–6650. All comments, and commenters' names and addresses, will be included in the administrative record.

FOR FURTHER INFORMATION CONTACT: Ms. Heather Cavaliere, MDA Public Affairs at 256–450–1599 or by email to *mda.info@mda.mil.* Additional information on the project can be found at MDA's website: *www.mda.mil/hdrh.*

SUPPLEMENTARY INFORMATION: A notice of intent to prepare the EIS for this project was previously published in the **Federal Register** on June 1, 2018, 83 FR 25442–25443. The purpose for reopening public scoping is to provide opportunity for comment on substantive project changes to previously identified HDR–H alternatives on the island of Oahu, in addition to a new HDR–H alternative on the island of Kauai. MDA is preparing the EIS to evaluate potential environmental impacts that could result from construction and operation of the HDR–H (a radar to identify, track, and classify long-range ballistic missile threats in mid-course flight), an In-Flight Interceptor Communications System Data Terminal or IDT (a facility that provides communication between the Ground-Based Midcourse Defense fire control system and the interceptor, both stationed elsewhere), and associated support facilities and infrastructure. The Proposed Action would also include establishment of restricted airspace for the HDR–H site. The purpose of the Proposed Action is to support the Missile Defense System and enhance homeland defense capabilities for Hawaii. The Fiscal Year (FY) 2017 National Defense Authorization Act (NDAA) requires MDA to develop a plan to construct and operate a ''discrimination radar'' or equivalent sensor, for a location that will improve homeland missile defense for the defense of Hawaii. A ''discrimination radar'' is capable of identifying and classifying specific ballistic missile threats. The FY2021 NDAA authorizes MDA to continue Homeland Defense Radar—Hawaii (HDR–H) radar development and siting efforts. The FY 2021 Appropriation bill provided funding to continue these efforts in FY 2021. Therefore, MDA is engaged in Advanced Planning studies and preparing an Environmental Impact Statement (EIS) for the siting and development of the HDR–H, should a deployment decision be made and is funded. The DoD has not yet made a decision on where to deploy the HDR–H and is still in the process of evaluating alternative locations.

During the original public scoping effort, MDA held three public scoping meetings on Oahu between June 19 and June 21, 2018. Due to the ongoing Coronavirus Disease 2019 (COVID–19) public health emergency, and consistent with the Centers for Disease Control and Prevention's guidance regarding large events and mass gatherings, MDA will provide an Online Open House website and hold two Telephone Public Meetings in place of in-person public scoping meetings. The Open House website has been developed to provide the public with HDR–H EIS-related information and the ability to comment on the Proposed Action. Access to this information can be found on MDA's website at *www.mda.mil/hdrh.* Notification of the public scoping period, Online Open House website, and Telephone Public Meetings will be published and announced in local news media to encourage public participation and review.

In accordance with the current 40 Code of Federal Regulations (CFR) 1501.8, the Department of the U.S. Air Force, Department of the U.S. Army, Department of the U.S. Navy, and Federal Aviation Administration (FAA) have been identified as cooperating agencies in preparing the EIS.

During the 2018 public scoping effort, MDA identified three alternative locations on the island of Oahu for the proposed HDR–H complex, which would consist of multiple buildings and facilities placed within and outside of a restricted fenced area. The overall complex would occupy up to approximately 50 acres and require up to approximately 100 additional acres for temporary construction laydown area and new infrastructure, depending on topographic and environmental conditions. Originally, one HDR–H alternative was identified at Kuaokala Ridge (KR) on state-owned land adjacent to the U.S. Air Force Kaena Point Satellite Tracking Station (KPSTS), while two other alternatives were identified at U.S. Army Kahuku Training Area (KTA) on DoD property and labeled as KTA Site 1 and Site 2. Since 2018, MDA has conducted additional and more intensive siting studies to confirm alternative selection, and optimize facility planning and design. As a result, in 2020 MDA removed both the KR and KTA Site 2 alternatives from further consideration and added a new alternative at the U.S. Navy Pacific Missile Range Facility (PMRF) on DoD property on the island of Kauai. The EIS analysis will include three alternatives: one on Oahu (KTA–1), one on Kauai (PMRF), and a No Action Alternative.

Because operation of the radar would create a hazard in areas of the National Airspace System where high intensity radiated fields (HIRF) would exceed FAA certification standards for aircraft electrical and electronic systems, MDA would coordinate with FAA to establish a Restricted Area within the radar's field-of-view where the flight of aircraft would be restricted.

Operation of the proposed HDR–H radar at the KTA–1 alternative would cause radio frequency interference with the U.S. Air Force Solar Observatory located at KPSTS. Because of the radio frequency interference, selection of the KTA–1 alternative would require the existing Solar Observatory mission to be relocated off island to another military installation in Hawaii and the existing facilities at KPSTS potentially demolished. Alternatives for relocating the Solar Observatory are PMRF on Kauai or the Air Force Research Laboratory Remote Maui Experiment facility situated on privately-owned lands leased to the U.S. Air Force on the island of Maui. Relocation of the Solar Observatory would require approximately one to two acres of privately-owned land for long-term operations. An additional acre of adjacent privately-owned land could be needed as temporary laydown area during Solar Observatory facility construction. Under the HDR–H alternative at PMRF, should it be selected, the existing Solar Observatory on Oahu would not require relocation.

At each HDR–H alternative location, impacts will be assessed for the following resource topics: Airspace management, air quality, biological resources, cultural resources, environmental justice, geology and soils, hazardous materials and waste management, health and safety, infrastructure (utilities), land use, noise and vibration, socioeconomics, transportation, visual resources, and water resources.

This public scoping effort also supports compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966 and its implementing regulations at 36 CFR part 800. As such, MDA will be conducting consultation with Native Hawaiian Organizations, government officials, and other interested parties regarding historic and cultural resources under Section 106 of the NHPA as appropriate.

MDA encourages all interested members of the public, as well as federal, state, and local agencies to participate in the public scoping process for the preparation of this EIS. The public scoping process assists in determining the scope of issues to be

addressed, other alternatives that should be considered, and helps identify significant environmental issues to be analyzed in depth in the EIS.

Dated: February 16, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–03449 Filed 2–25–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2020–OS–0007]

Proposed Collection; Comment Request

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

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Finance and Accounting Service announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 27, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: The DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Finance and Accounting Service, Kellen Stout, 8899 E 56th St., Indianapolis, IN 46249 or call (317) 212–1801.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Request for Information Regarding Deceased Debtor, DD Form 2840; OMB Control Number 0730–0015.

Needs and Uses: The information collection requirement is necessary to obtain information on deceased debtors from probate courts. Probate courts review their records to see if an estate was established. They provide the name and address of the executor or lawyer handling the estate. From the information obtained, DFAS submits a claim against the estate for the amount due to the United States.

Affected Public: State, local, or tribal government.

Annual Burden Hours: 100.

Number of Respondents: 300.

Responses per Respondent: 1.

Annual Responses: 300.

Average Burden per Response: 20 minutes.

Frequency: On occasion.

Dated: February 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–04024 Filed 2–25–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Army Corps of Engineers

[Docket ID: USA–2021–HQ–0003]

Proposed Collection; Comment Request

AGENCY: Army Corps of Engineers, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the U.S. Army Corps of Engineers announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 27, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: The DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the U.S. Army Corps of Engineers Omaha District, ATTN: Kelly Baxter, 1616 Capitol Ave., Ste. 9000, Omaha, NE 68102; call at 402–995–2447; or email at *Kelly.D.Baxter@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Pacific Northwest Households Recreation Use Surveys; OMB Control Number 0710–0021.

Needs and Uses: The U.S. Army Corps of Engineers, Bonneville Power Administration (BPA), and Bureau of Reclamation (BOR), are jointly developing an environmental impact statement (EIS), referred to as the Columbia River System Operations (CRSO) EIS. As part of the EIS, the Corps is tasked with evaluating changes in the economic value provided by water-based recreation. The purpose of this survey effort is to gather information that will support development of a water-based recreational demand model for the Columbia River Basin in Washington,

Oregon, Idaho, and western Montana. The proposed design involves a mail survey for preliminary screening to identify eligible recreators, followed by a telephone survey of eligible recreators to collect data on recreational trips and activities within the region. The model will be used to evaluate recreational impacts associated with alternatives identified within the CRSO EIS.

Affected Public: Individuals or households.

Annual Burden Hours: 3,150 hours.

Number of Respondents: 9,700.

Responses per Respondent: 1.

Annual Responses: 9,700.

Average Burden per Response: 19.48 minutes.

Frequency: One-time.

Dated: February 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–04019 Filed 2–25–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Corps of Engineers

[Docket ID: USA–2021–HQ–0002]

Proposed Collection; Comment Request

AGENCY: Corps of Engineers, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the U.S. Corps of Engineers announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by April 27, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

Mail: The DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to U.S. Army Corps of Engineers, 441 G Street NW, Washington, DC 20314–1000, Attn: CECW–CO–R, or call Department of the Army Reports clearance officer Karen Mulligan at (703) 428–6440.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: U.S. Army Corps of Engineers Customer Service Survey, ENG Form 5065, OMB Control Number 0710–0012.

Needs and Uses: The information collection requirement is necessary for the Corps to conduct surveys of customers served by our district offices, currently a total of 38 offices. Only voluntary opinions will be solicited and no information requested on the survey instrument will be mandatory. The survey form will be provided to the applicants when they receive a regulatory product, primarily a permit decision or wetland determination. The information collected will be used to assess whether Regulatory business practices or policies warrant revision to better serve the public. Without this survey the Corps would have to rely on less structured, informal methods of obtaining public input. The data collection instrument was minimized for respondent burden, while maximizing data quality. The following strategies were used to achieve these goals: 1. Questions are clearly written, 2. The questionnaire is of reasonable length, 3. The questionnaire includes only items that have been shown to be successful in previous analyses and ease in navigation.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, local, or tribal government.

Annual Burden Hours: 333 hours.

Number of Respondents: 2,000.

Responses per Respondent: 1.

Annual Responses: 2,000.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

The Corps of Engineers is required by three federal laws, passed by Congress, to regulate construction-related activities in waters of the United States. This customer survey provides feedback on the service the public has received from the Regulatory program during their permit or jurisdictional determination evaluations.

Dated: February 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–04058 Filed 2–25–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Army Corps of Engineers

[Docket ID: USA–2021–HQ–0012]

Submission for OMB Review; Comment Request

AGENCY: U.S. Army Corps of Engineers, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 29, 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.

FOR FURTHER INFORMATION CONTACT: Angela James, 571–372–7574, or *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Flood and Coastal Storm Damage Surveys; OMB Control Number 0710–0017.

Type of Request: Reinstatement (without change) of a Previously Approved Collection.

Number of Respondents: 3,000.

Responses per Respondent: 1.

Annual Responses: 3,000.

Average Burden per Response: 23 minutes.

Annual Burden Hours: 1,150.

Needs and Uses: The USACE provides flood risk management structural and nonstructural mitigation, planning and tech services to communities, residents and businesses at risk of flooding. Flood damage surveys are administered by USACE and its contractors to determine the impacts and potential impacts of flooding and to determine how communities, residents, and businesses respond to flooding. The data are used for estimating damage for factors such as depth of flooding, construction types, and different occupancies of use, which influences project formulation and budgeting.

Affected Public: Business or other for-profit; individuals or households; not-for-profit institutions; State, Local, or Tribal Government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Vlad Dorjets.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela James.

Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: February 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–03994 Filed 2–25–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities Program—Television Access Projects

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for Educational Technology, Media, and Materials for Individuals with Disabilities—Television Access Projects, Assistance Listing Number 84.327C. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: February 26, 2021.

Deadline for Transmittal of Applications: April 27, 2021.

Deadline for Intergovernmental Review: June 28, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Rebecca Sheffield, U.S. Department of Education, 400 Maryland Avenue SW, Room 5040E, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6725. Email: *Rebecca.Sheffield@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Educational Technology, Media, and Materials for Individuals with Disabilities Program is to improve results for students with disabilities by: (1) Promoting the development, demonstration, and use of technology; (2) supporting educational media activities designed to be of educational value in the classroom for students with disabilities; (3) providing support for captioning and video description that is appropriate for use in the classroom; and (4) providing accessible educational materials to students with disabilities in a timely manner.

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 674(c)(1)(D) and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1474(c)(1)(D) and 1481(d)).

Absolute Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Television Access Projects

Background: Section 674(c) of the IDEA requires, in part, that the Secretary of Education support audio description,[1] open captioning, and closed captioning[2] that is appropriate for use in the classroom setting of (a) television programs; (b) videos; and (c) other materials, including programs and materials associated with new and emerging technologies.[3] Twenty-first century K–12 classrooms and early childhood learning environments provide enriching, differentiated learning opportunities. For children and youth with disabilities to fully engage in in-person, hybrid, and online learning environments, they must have access to all instructional activities and materials. Learners with sensory disabilities (*e.g.,* blindness, including visual impairment; deafness; hearing impairment; and deaf-blindness) often require alternate means of accessing educational materials, video programming, and online resources. Learners with other disabilities and English learners can also benefit from accessibility features embedded in educational media and materials (Kent et al., 2017; Teng, 2019). When educational materials are inaccessible, students with sensory disabilities miss out on opportunities to

[1] In October 2020, the Federal Communications Commission (FCC) adopted rule changes, including a switch from the term ''video description'' to ''audio description'' that can be found at *https://ecfsapi.fcc.gov/file/102760142335/FCC-20-155A1.pdf.* Audio description (also known as video description or description) refers to providing auditory access to significant visual content in a video through spoken narration accompanying the video's soundtrack.

[2] Closed captioning (also known as captioning) refers to providing visual access to audio content from a video through text displayed along with the video.

[3] Applicants should note that other laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.;* 28 CFR part 35) and section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794; 34 CFR part 104), may require that State educational agencies (SEAs) and local educational agencies (LEAs) provide captioning, audio description, and other accessible educational materials to students with disabilities when these materials are necessary to provide equally integrated and equally effective access to the benefits of the educational program or activity, or as part of a ''free appropriate public education'' as defined in 34 CFR 104.33.

participate fully and independently in learning (Rodriguez & Diaz, 2017).

Closed captioning and audio description technologies enhance learning experiences for children and youth with disabilities and English learners (Rodriguez & Diaz, 2017). Captioning increases the accessibility of video programming, particularly for audience members (children, parents, and teachers) who are deaf or have hearing loss and for those who are temporarily unable to hear a program or who benefit when auditory information is supported by text. Audio description increases access to visual content, especially for people with visual impairments or visual processing difficulties and for anyone temporarily unable to follow a program visually.

Children and youth with deaf-blindness have a spectrum of video access needs; therefore, captioning and audio description are most beneficial when provided in customizable formats. For example, students may need to change the size of captions or slow down descriptions; others may need separate transcription documents. Different descriptions may be required for the same video depending on individual needs and instructional purposes.

The Telecommunications Act of 1996 requires most television programs to be captioned. The Federal Communications Commission (FCC) also requires networks to broadcast a comparatively limited amount of audio described programming. The FCC's requirements for captioning and description do not apply to online media, and when previously broadcast video is shared online, online versions may not be accessible.

The Department has made awards since 1995 to provide audio description and captioning under the Educational Technology, Media, and Materials for Individuals with Disabilities program. Despite these efforts and IDEA requirements for students to be provided with accessible instructional materials, not all video and multimedia content used in school settings is described or captioned. Content creators continue to produce media resources that must be remediated, rather than ''born accessible,'' *i.e.,* released with embedded captions and audio description. More captioned and described content is needed, especially to assist those who are English learners and in settings with limited internet access, where older educational media may still be in use.

Priority: The purpose of this priority is to fund three cooperative agreements that will improve the learning opportunities for children and youth with disabilities by providing access to video programming [4] through accessible high-quality audio description and captioning. This access will be accomplished by making available television programs that are appropriate for use in classroom settings and online learning environments that are not otherwise required to be captioned or described by the FCC. As part of the work of each project, in consultation with the Office of Special Education Programs (OSEP) project officer, selective media must be captioned and described in Spanish for eligible users who are learning English and live in households where Spanish is the dominant language.

The projects must achieve, at a minimum, the following expected outcomes:

(a) Increased access to captioned and described video programming by children with sensory disabilities and other disabilities;

(b) Increased number of described and captioned educational video programs, both in English and in Spanish, available for use by children with disabilities;

(c) Increased cost effectiveness and efficiency in the production and dissemination of accessible video programming;

(d) Increased quality and usability of described and captioned products;

(e) Increased use of technology in the projects' production and dissemination workflows and related processes; and

(f) Increased alignment and coordination across the three 84.327C projects and the Captioned and Described Educational Media Center (84.327N).

In addition to these programmatic requirements, to be considered for funding under this absolute priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance'' how the proposed project will—

(1) Address the need for access to educational television programming to support equitable opportunities in early learning programs, schools, and workplaces for transition-aged youth. To meet this requirement, the applicant must—

(i) Present applicable national, State, regional, or local data demonstrating the need for accessible educational television programming in schools, online settings, and workplaces for transition-aged youth and children and youth with disabilities, including children with disabilities who may be underserved; and

(ii) Demonstrate knowledge of the benefits, services, or opportunities that are available through the use of educational television programming in schools, online settings, and workplaces that are fully accessible to children and youth with disabilities, including children with disabilities who may be underserved.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the project will—

(1) Apply knowledge of the populations served by the project to determine the preferences and unmet needs of educators, children and youth with disabilities, and the parents of these students in selecting the programming to be audio described, captioned, or both;

(2) Use criteria to select, produce, and add high-quality descriptions and captioning to widely available Spanish and English language video programming of high educational value for children and youth with disabilities and their families, teachers, and other professionals to use in K–12 classroom settings or online learning environments;

(3) Identify and use new and emerging technologies and processes that will improve the quality, availability, cost effectiveness, and usability of accessible educational media, materials, and products for children and youth with disabilities in the production of accessible educational video programming;

(4) Acquire, from producers, networks, program creators, and others, video programming to describe and caption to make the programming accessible to children and youth with disabilities; and

(5) Develop and implement, in collaboration with the Captioned and Described Educational Media Center (84.327N), documented routines and processes to improve access to, and increase the collection of, accessible educational video programming, online materials, and other related media that make it possible for children and youth with disabilities to participate in early learning environments, K–12 settings, and remote online environments to succeed in 21st-century educational environments.

[4] For the purposes of this notice, video programming is defined consistent with 47 CFR 79.4, meaning ''programming by, or generally considered comparable to programming provided by, a television broadcast station, but not including consumer-generated media.''

(c) Demonstrate, in the narrative section of the application under ''Adequacy of project resources,'' how—

(1) The proposed key personnel, consultants, and contractors have the qualifications, experience, and commitment to carry out the proposed activities and achieve the project's intended outcomes;

(2) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(3) The applicant and key partners have adequate resources to carry out proposed project activities. To address this requirement, the applicant must describe—

(i) The willingness of the potential television program providers or program owners, as appropriate, to permit and facilitate the audio description or the audio description and captioning of their programs;

(ii) Requirements and assurances that the programming that is made accessible under this project will continue to contain those audio descriptions and captions after the programming is aired; and

(iii) How programming audio described or captioned under this project would not otherwise be audio described or captioned to meet the FCC's requirements, or how this programming is specifically exempt from the FCC's requirements; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits. To address this requirement, the applicant must describe—

(i) The total number of program hours proposed to be made accessible through audio description, or audio description and captioning, under this project;

(ii) The cost per hour for audio description and, if the applicant is proposing both audio description and captioning, the cost per hour for audio description and for captioning; and

(iii) A plan, if any, to increase the anticipated shelf-life and distribution of educational programming described, or captioned and described, under this project.

(d) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key personnel, consultants, and contractors will be sufficiently allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including, but not limited to, students and families, early intervention service providers, educators, researchers, and other OSEP funded projects.

(e) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan, as described in the following paragraphs. The evaluation plan must describe measures of progress in implementation, including the extent to which the project's products and services have reached its target population and measures of intended outcomes or results of the project's activities to assess the effectiveness of those activities.

In designing the evaluation plan, the applicant must—

(1) Provide a logic model [5] or conceptual framework that depicts, at a minimum, the goals, activities, project evaluation, methods, performance measures, outputs, and outcomes of the proposed project;

(2) Provide a plan to implement the activities described in this priority; and

(3) Provide a plan, linked to the proposed project's logic model or conceptual framework, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and resources.

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(f) Address the following application requirements. The applicant must include—

(1) In Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative; and

(2) In the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, or virtually, after receipt of the award, and an annual planning meeting in Washington, DC, or virtually, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative.

(ii) A two and one-half day project directors' conference in Washington, DC, or a virtual conference, during each year of the project period.

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive OSEP review meeting during the last half of the second year of the project period.

(3) Information on how the project will maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility; and

(4) In Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of an OSEP review team consisting of experts who have experience and knowledge in providing access to video programming through accessible high-quality audio description and captioning. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

[5] Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. See 34 CFR 77.1.

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

References

Feng, T. (2019). Incidental vocabulary learning for primary school students: The effects of L2 caption type and word exposure frequency. *Australian Educational Researcher, 46*(1), 113–136.

Kent, M., Ellis, K., Peaty, G., Latter, N., & Locke, K. (2017). *Mainstreaming captions for online lectures in higher education in Australia.* Curtin University. *www.ncsehe.edu.au/wp-content/uploads/2017/04/MainstreamingCaptions_FinalReport.pdf.*

Rodriguez, J., & Diaz, M.V. (2017). Media with captions and description to support learning among children with sensory disabilities. *Universal Journal of Educational Research, 5*(11), 2016–2025.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1474 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreements.

Estimated Number of Awards: 3.

Estimated Range of Awards: $650,000 to $666,000 per year.

Estimated Available Funds: $2,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2022 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $3,335,000 for the 60-month project period.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* State educational agencies (SEAs); local educational agencies (LEAs), including public charter schools that operate as LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:*

a. Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

b. Each applicant for, and recipient of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.

• Use a font that is 12 point or larger.

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (15 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The significance of the problem or issue to be addressed by the proposed project; and

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Quality of project services (30 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(ii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services;

(iii) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services; and

(iv) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(c) *Adequacy of resources and quality of project personnel (20 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator;

(ii) The qualifications, including relevant training and experience, of key project personnel;

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors;

(iv) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization; and

(v) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(d) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

(iii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies;

(iv) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(v) The extent to which the evaluation plan clearly articulates the key project components, mediators, and outcomes, as well as a measurable threshold for acceptable implementation.

(e) *Quality of the management plan (15 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project;

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate; and

(v) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions, and under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* For the purposes of the Government Performance and Results Act of 1993 (GPRA) and reporting under 34 CFR 75.110, the Department has established a set of performance measures,

including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Educational Technology, Media, and Materials (ETechM2) for Individuals with Disabilities Program. These measures are:

- *Program Performance Measure 1:* The percentage of ETechM2 Program products and services judged to be of high quality by an independent review panel of experts qualified to review the substantial content of the products and services.
- *Program Performance Measure 2:* The percentage of ETechM2 Program products and services judged to be of high relevance to improving outcomes for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure 3:* The percentage of ETechM2 Program products and services judged to be useful in improving results for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure 4.1:* The Federal cost per unit of accessible educational materials funded by the ETechM2 Program.
- *Program Performance Measure 4.2:* The Federal cost per unit of accessible educational materials from the National Instructional Materials Accessibility Center funded by the ETechM2 Program.
- *Program Performance Measure 4.3:* The Federal cost per unit of video description funded by the ETechM2 Program.

These measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual performance reports and additional performance data to the Department (34 CFR 75.590 and 75.591).

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

David Cantrell,

Deputy Director, Office of Special Education Programs, Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2021–03972 Filed 2–25–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities Program—Captioned and Described Educational Media Center

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for Educational Technology, Media, and Materials for Individuals with Disabilities—Captioned and Described Educational Media Center, Assistance Listing Number 84.327N. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: February 26, 2021.

Deadline for Transmittal of Applications: April 27, 2021.

Deadline for Intergovernmental Review: June 28, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Terry Jackson, U.S. Department of Education, 400 Maryland Avenue SW, Room 5128, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6039. Email: *Terry.Jackson@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Educational Technology, Media, and Materials for Individuals with Disabilities Program is to improve results for students with disabilities by (1) promoting the development, demonstration, and use of technology; (2) supporting educational activities designed to be of educational value in the classroom for students with disabilities; (3) providing support for captioning and video description that is appropriate for use in the classroom; and (4) providing accessible educational materials to students with disabilities in a timely manner.

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in sections 674(c)(1)(D) and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1474(c)(1)(D) and 1481(d).

Absolute Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34

CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Captioned and Described Educational Media Center

Background: Section 674(c) of the IDEA requires, in part, that the Secretary of Education support audio description,[1] open captioning, and closed captioning,[2] which is appropriate for use in early learning and kindergarten through grade 12 (K–12) settings, of (a) television programs, (b) videos, and (c) other materials, including programs and materials associated with new and emerging technologies.

Ensuring that educational materials used in various learning environments are accessible to students who have hearing or vision impairments is an ongoing challenge and extends to a variety of critical content areas, including science, technology, engineering, and mathematics (STEM) and Spanish language materials. STEM materials are often not in accessible formats, and few Spanish language materials are captioned or described. Therefore, eligible students who are hearing or vision impaired or who are English learners (ELs) who speak Spanish are placed at a disadvantage.

Research has demonstrated that accessible technologies like captioning and audio description contribute to gains in knowledge and understanding, improved retention, and increased interest in, and enjoyment of, the world for students with sensory disabilities (*e.g.,* blindness/visual impairment, deafness/hard of hearing, and deaf blindness) (Rodriguez & Diaz, 2017). Captioning and audio description not only benefit students with sensory disabilities but can also benefit students without sensory disabilities and ELs. Studies have demonstrated that captioning improves ELs' performance with listening, auditory, and comprehension tests. Gernsbacher (2015) highlighted that learning to read is a complex process and watching videos with audio captions can lead to improvement in reading skills, defining content words, recognizing and pronouncing new and different vocabulary words, and drawing inferences about what happened in the videos for hearing and hearing-impaired children.

In the past, the rights to accessible educational films and videos were purchased with Federal funds to make them available to eligible users with disabilities. Over the years, however, national broadcast television network program providers and the Television Access (84.327C) projects have collaborated to provide accessible educational television programs available at no cost and available on-demand to children with disabilities (U.S. Department of Education, March 16, 2015). As a result, the Television Access (84.327C) projects now secure media from program providers at no cost.

The need to support a Center that provides captioning and audio description for educational curricular materials and educational media that is appropriate for use in early learning and K–12 settings (including face-to-face, remote/online, and hybrid learning) continues to grow. Furthermore, the rapid growth, changes, and quality of accessible technology and captioning and description services must keep pace with advancements in new and emerging forms of media and technologies. A Center can provide easy access, e-learning opportunities, and cutting-edge digital technology for children and youth with sensory disabilities who need support and guidance in understanding how to use these technologies. In addition, a Center can provide families, educators, school administrators, and paraprofessionals with direct supports to access and use resources that are audio described and captioned and make appropriate curricular material selections.

Priority: The purpose of this priority is to fund a cooperative agreement to establish and operate a Captioned and Described Educational Media Center (Center) that will oversee the selection, acquisition, captioning, audio description, and distribution of educational media and materials through a free loan service for eligible users.[3]

The Center must achieve, at a minimum, the following expected outcomes:

(a) Improved selection, acquisition, captioning, audio description, dissemination, and public awareness of curricular and accompanying learning materials through a free loan service for eligible users;

(b) Increased number of described and captioned educational video programming,[4] audio, and online digital media produced by the Center and the Television Access (84.327C) projects that are free of charge to users;

(c) Improved access and use of accessible curricular materials and online media products for early childhood providers, K–12 educators, children and youth with disabilities, ELs, teachers, families, and other professionals;

(d) Increased supports, resources, and trainings related to the use of accessible described and captioned media in early learning environments and K–12 settings for children and youth with disabilities, their families, teachers, and other professionals, including collections of described and captioned curricula, training materials, modules, webinars, and other informational resources;

(e) Increased access to content through a dedicated online portal and through the use of new and emerging technologies and processes; and

(f) Improved coordination and efficient use of funding across the Television Access (84.327C) projects and this Center to more efficiently and effectively meet the needs of States, administrators, educators, service providers, children and youth with disabilities, ELs, and their families, and more efficient use of the funding available to support these activities.

[1] In October 2020, the Federal Communications Commission (FCC) adopted rule changes including a switch from the term ''video description'' to ''audio description'' that can be found at *https://ecfsapi.fcc.gov/file/102760142335/FCC-20-155A1.pdf.* Audio description (also known as video description or description) refers to providing auditory access to significant visual content in a video through spoken narration accompanying the video's soundtrack. Audio description increases the accessibility of visual content, especially for audience members who are blind or visually impaired or who have visual processing difficulties and for those who may be temporarily unable to follow the video portion of a program.

[2] Closed captioning (also known as captioning) refers to providing visual access to audio content from a video through text displayed along with the video. Captioning increases the accessibility of video and multi-media programs, particularly for audience members who are deaf or have hearing loss, but also for those who are temporarily unable to hear a program or who benefit when auditory information is substituted/supplemented by text (for example, some English learners and some students with language processing difficulties).

[3] For purposes of this priority, ''eligible users'' are defined as students, including English learners, in early learning and kindergarten through grade 12 (K–12) settings (face-to-face, remote/online, and hybrid learning) who have hearing or vision impairments and individuals, such as teachers, parents, and paraprofessionals, who are directly involved in these students' early learning or K–12 classroom instruction. To be eligible to use the accessible products and materials in the accessible technology platform (ATP), children and youth with disabilities must meet the criteria for ''eligible person'' in the Copyright Act of the United States, at 17 U.S.C. 121. For more information, visit *www.copyright.gov/title17/92chap1.html#121.*

[4] For the purposes of this priority, ''video programming'' is defined consistent with the Communications Act of 1934, 47 U.S.C. 613, meaning ''programming by, or generally considered comparable to programming provided by a television broadcast station, but not including consumer-generated media.''

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the following application and administrative requirements in this priority:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Use applicable national, State, regional, or local data to demonstrate the need for the Center to oversee the selection and acquisition for captioning and audio description for children with sensory disabilities, families, educators, paraprofessionals, including children with disabilities, and ELs who may be underserved; and

(2) Increase knowledge and understanding of the benefits, services, or opportunities that are available by using accessible educational materials and educational television programming in early childhood environments, K–12, and remote/online settings.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the project will—

(1) Improve the quality, usability, availability, and access to the content of a free online site to make it possible for eligible users to easily borrow media from the loan service;

(2) Provide secure access to on-demand, curricular materials, accessible educational video programming, and e-learning modules;

(3) Select educational curricular material and television programs of high educational value and quality that are widely available and appropriate for use in early learning environments and K–12 settings (face-to-face, remote/online, or hybrid learning environments) for children and youth with disabilities and ELs;

(4) Implement strategies and procedures for identifying and prioritizing educational media and curricular materials that are not currently readily accessible to students but are appropriate for eligible users attending early learning programs and elementary and secondary schools that meet the educational needs of those students, including ELs;

(5) Coordinate with the Television Access (84.327C) projects and media producers and distributors for the Center to acquire (at no cost) the rights to caption, describe, and widely distribute selected media, including distribution in alternate formats, such as video streaming;

(6) Provide training, support, and resources (*e.g.,* collections of described and captioned curricula, training materials, modules, webinars, other informational resources) related to the use of described and captioned materials and programming for children and youth with disabilities, their families, teachers, educators, administrators, and other professionals;

(7) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet these requirements, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for technical assistance and information; and

(ii) Ensure that services and products meet the needs of the intended recipients of the grant;

(8) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—-

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model [5] or conceptual framework by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project; and

(9) Use a logic model or conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework.

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptualframework.*

(c) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed key personnel, consultants, and contractors have the qualifications, experience, and commitment to carry out the proposed activities and achieve the project's intended outcomes;

(2) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, linguistic diversity, gender, age, or disability, as appropriate;

(3) The applicant and key partners have adequate resources to carry out proposed project activities. To address this requirement, the applicant must describe the willingness of the potential television program providers or program owners, as appropriate, to permit and facilitate the video description or the video description and captioning of their programs; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(d) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe measures of progress in implementation, including the extent to which the project's products and services have reached its target population; and measures of intended outcomes or results of the project's activities to assess the effectiveness of those activities.

In designing the evaluation plan, the applicant must—

(1) Provide a logic model or conceptual framework that depicts, at a minimum, the goals, activities, project evaluation, methods, performance measures, outputs, and outcomes of the proposed project;

(2) Provide a plan to implement the activities described in this priority; and

(3) Provide a plan, linked to the proposed project's logic model or conceptual framework, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and resources.

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Designate, with the approval of the Office of Special Education Programs (OSEP) project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to

[5] Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. See 34 CFR 77.1.

Improve Program and Project Performance (CIPP), the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the application consistent with the logic model (*e.g.,* prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies);

(iii) Revise, as needed, the evaluation plan submitted in the application such that it clearly—

(A) Specifies the evaluation questions, measures, and associated instruments or sources for data appropriate to answer these questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completing the evaluation activities; and

(B) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed to specify the project performance measures to be addressed in the project's annual performance report;

(iv) Dedicate sufficient staff time and other resources during the first six months of the project to collaborate with CIPP staff, including regular meetings (*e.g.,* weekly, biweekly, or monthly) with CIPP and the OSEP project officer, in order to accomplish the tasks described in paragraph (d)(4) of this section; and

(v) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (d)(4) of this section and revising and implementing the evaluation plan. Please note in your budget narrative the funds dedicated for this activity.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel, consultants, and contractors will be sufficiently allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and resources provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must include—

(1) In Appendix A, personnel-loading charts, and timelines, as applicable, to illustrate the management plan described in the narrative; and

(2) In the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, or virtually, after receipt of the award, and an annual planning meeting in Washington, DC, or virtually, with the Office of Special Education Programs (OSEP) project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative.

(ii) A two and one-half-day project directors' conference in Washington, DC, or a virtual conference, during each year of the project period.

(iii) Two annual two-day trips, or virtually, to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP.

(iv) A one-day intensive 3+2 review meeting during the last half of the second year of the project period.

(3) Information on how the project will maintain a website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(4) In Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a 3+2 review team consisting of experts who have experience and knowledge in providing captioning and description services for children and youth with disabilities. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

References

Gernsbacher, M.A. (2015). Video captions benefit everyone. *Policy Insights from the Behavioral and Brain Sciences, 2*(1), 195–202. *https://doi.org/10.1177/2372732215602130.*

Rodriguez, J., & Diaz, M.V. (2017). Media with captions and description to support learning among children with sensory disabilities. *Universal Journal of Educational Research, 5*(11), 2016–2025. *https://files.eric.ed.gov/fulltext/EJ1159754.pdf.*

U.S. Department of Education. (2015, March 16). Video-on-Demand Children's TV Programming Now Accessible for Thousands of Students with Visual or Hearing Disabilities [Press release]. *www.ed.gov/news/pressreleases/video-demand-children%E2%80%99s-tv-programming-now-accessible-thousands-students-visual-or-hearing-disabilities.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1474 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in the Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $2,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2022 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $10,000,000 for the 60-month project period.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* State educational agencies; local educational agencies (LEAs), including public charter schools that operate as LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:* (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (15 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The significance of the problem or issue to be addressed by the proposed project;

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses; and

(iii) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(b) *Quality of project services (30 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(ii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services;

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services;

(iv) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services; and

(v) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(c) *Adequacy of resources and quality of project personnel (20 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel;

(ii) The qualifications, including relevant training and experience, of project consultants or subcontractors;

(iii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization;

(iv) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project; and

(v) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(d) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible;

(iii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies;

(iv) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(v) The extent to which the evaluation plan clearly articulates the key project components, mediators, and outcomes, as well as a measurable threshold for acceptable implementation.

(e) *Quality of the management plan (15 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project;

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate; and

(v) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for

which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115—232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* For the purposes of the Government Performance and Results Act of 1993 (GPRA) and reporting under 34 CFR 75.110, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Educational Technology, Media, and Materials (ETechM2) for Individuals with Disabilities Program. These measures are:

- *Program Performance Measure 1:* The percentage of ETechM2 Program products and services judged to be of high quality by an independent review panel of experts qualified to review the substantial content of the products and services.
- *Program Performance Measure 2:* The percentage of ETechM2 Program products and services judged to be of high relevance to improving outcomes for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure 3:* The percentage of ETechM2 Program products and services judged to be useful in improving results for infants, toddlers, children, and youth with disabilities.
- *Program Performance Measure 4.1:* The Federal cost per unit of accessible educational materials funded by the ETechM2 Program.
- *Program Performance Measure 4.2:* The Federal cost per unit of accessible

educational materials from the National Instructional Materials Accessibility Center funded by the ETechM2 Program.

• *Program Performance Measure 4.3:* The Federal cost per unit of video description funded by the ETechM2 Program.

These measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual performance reports and additional performance data to the Department (34 CFR 75.590 and 75.591).

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

David Cantrell,

Deputy Director, Office of Special Education Programs, delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2021–03996 Filed 2–25–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities; Personnel Development To Improve Services and Results for Children With Disabilities; and Educational Technology, Media, and Materials for Individuals With Disabilities Programs—National Technical Assistance Center for Postsecondary Education and Training for Individuals who are Deaf or Hard of Hearing

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for the National Technical Assistance Center for Postsecondary Education and Training for Individuals who are Deaf or Hard of Hearing, Assistance Listing Number 84.326D. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: February 26, 2021.

Deadline for Transmittal of Applications: April 27, 2021.

Deadline for Intergovernmental Review: June 28, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Louise Tripoli, U.S. Department of Education, 400 Maryland Avenue SW, Room 5124, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7554. Email: *Louise.Tripoli@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: Funds from the following three Department programs support this competition: The Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities (TA&D) program; the Personnel Development to Improve Services and Results for Children with Disabilities (PD) program; and the Educational Technology, Media, and Materials for Individuals with Disabilities (ETechM2) program.

The purpose of the TA&D program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research. The purposes of the PD program are to (1) help address State-identified needs for personnel—in special education, related services, early intervention, and regular education—to work with children and youth with disabilities; and (2) ensure that those personnel have the skills and knowledge—derived from practices that have been determined through research and experience to be successful—that are needed to serve those children. Finally, the purposes of the ETechM2 program are to (1) improve results for children with disabilities by promoting the development, demonstration, and use of technology; (2) support educational activities designed to be of educational value in the classroom for students with disabilities; (3) provide support for captioning and video description that is appropriate for use in the classroom; and (4) provide accessible educational materials to students with disabilities in a timely manner.

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities

specified in the statute (see sections 662(c)(2), 663(c)(8)(C), 674(b) and (c), and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1462(c)(2), 1463(c)(8)(C), 1474(b) and (c), and 1481(d)).

Absolute Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

National Technical Assistance Center for Postsecondary Education and Training for Individuals who are Deaf or Hard of Hearing

Background: Section 682(d)(1)(B) of IDEA requires the Secretary to ensure that, for each fiscal year, not less than $4,000,000 is provided, under subparts 2 and 3 of IDEA, to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals who are deaf or hard of hearing. The Department intends to build on current efforts to improve outcomes in postsecondary education and training for individuals who are deaf or hard of hearing by funding a TA center dedicated to improving the collaboration among postsecondary institutions, State educational agencies (SEAs), local educational agencies (LEAs), State vocational rehabilitation (VR) agencies, VR service providers, and other relevant organizations and public agencies.

Many people have low expectations of individuals who are deaf or hard of hearing. Deaf individuals' expectations about their abilities and future educational attainment do not develop in a vacuum—parents, teachers, and other professionals make a significant contribution to how those expectations and beliefs are formed. Parental expectations are an important contributor to long-term outcomes (*e.g.,* living independently, enrolling in and completing college) of deaf individuals. Teachers of deaf students can provide support and guidance through sharing high expectations for their students' achievement, teaching them to be self-advocates, and supporting their healthy self-concept and social emotional development. However, there remains a significant need to educate parents, teachers, and professionals about deaf individuals' true potential for success.

Continuing education and training after high school can play a major role in overall quality of life. Educational attainment is linked to many life outcomes, including physical health, personal stability, community involvement, among others. Educational attainment also contributes to increased employment opportunities, career advancement, and earnings. For deaf people, continuing education and training after high school appears to be an important component of narrowing the employment gap between deaf and hearing people. In 2017, 83.7 percent of deaf adults in the United States had successfully completed high school, compared to 89.4 percent of hearing adults (Garberoglio et al., 2019).

Although an increasing number of individuals who are deaf or hard of hearing are attending postsecondary education and training programs, they have poor rates of completion compared to their non-disabled peers, which is often due to inadequate postsecondary skill preparation. National data shows that in 2017 only 5 percent of deaf people were enrolled in postsecondary institutions of any type, compared to 11 percent of hearing people (Garberoglio et al., 2019). In addition, data from the 2017 American Community Survey showed that only 18.8 percent of deaf adults in the United States had completed a bachelor's degree or higher, compared to 34 percent of hearing adults (U.S. Census Bureau, 2018–2019).

Individuals who are deaf or hard of hearing have unique and varying communication and language barriers that require a range of accommodations for success in postsecondary education and training settings. For example, different accommodations are needed for a student who has hearing aids or a cochlear implant and uses oral-auditory strategies, a student with a cochlear implant who uses sign language in addition to oral-auditory strategies, and a student who uses sign language only. Postsecondary institutions must be well-informed about relevant requirements and the various accommodations that may be appropriate for students who are deaf or hard of hearing (*e.g.,* oral transliteration services, sign language transliteration, and sign language interpreting and transcription services).

Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended (ADA), outline postsecondary institutions' obligations to ensure that they do not discriminate on the basis of disability. These obligations include providing academic adjustments and auxiliary aids and services for students with disabilities (28 CFR 35.160–35.164; 28 CFR 36.303; 34 CFR 104.44). With the rapid pace of technological advancement and the increasing sophistication of technology, it is important for personnel at postsecondary institutions, other relevant organizations, and public agencies to stay current on available technology and policies to ensure communication access for their deaf or hard of hearing students. For example, personnel must be knowledgeable about a variety of interpreting, transcription, and note-taking services and remote or on-site captioning technologies (*e.g.,* C–Print or Communication Access Real-time Translation (CART)), as well as assistive listening devices that may serve as effective accommodations for some students who are deaf or hard of hearing.

Individuals with disabilities, including those who are deaf or hard of hearing, often need to simultaneously access services from several different agencies to successfully meet their needs. To address the diverse and complex needs of individuals who are deaf or hard of hearing and their families, policymakers and other professionals have stressed the importance of ensuring individuals with disabilities have access to a comprehensive set of services and supports to help them develop the skills they will need to access and persevere in postsecondary education and training settings. Currently, no single system or agency is responsible for providing all the necessary supports to help individuals with disabilities develop these essential skills. Providing support for improved interagency collaboration at State and local levels may produce better outcomes in postsecondary education and training for individuals who are deaf or hard of hearing (Garberoglio et al., 2020).

Priority: The purpose of this priority is to fund a cooperative agreement to establish and operate a National Technical Assistance Center for Postsecondary Education and Training for Individuals who are Deaf or Hard of Hearing. This Center will support postsecondary education through its work with postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies, to more effectively address the postsecondary, vocational, technical, continuing, and adult education (postsecondary education and training) needs of individuals who are deaf or hard of hearing, including those who have co-occurring disabilities, and those who are English learners. The Center will foster collaboration among postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies to support improved outcomes for deaf or hard of hearing transition-aged youth.

The Center must achieve, at a minimum, the following expected outcomes:

(a) Increased numbers of individuals who are deaf or hard of hearing who are admitted to, persist in, and complete postsecondary, vocational, technical, and continuing and adult education and training, including adult basic education and developmental education programs;

(b) Improved collaboration among postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies so they are more effective at the following activities:

(1) Identifying roles, responsibilities, and procedures for outreach to individuals who are deaf or hard of hearing and who are interested in pursuing postsecondary education and training, including outreach to secondary school students who have identified postsecondary education and training goals as part of an individualized education program or individualized plan for employment;

(2) Identifying and providing education and employment training opportunities for individuals who are deaf or hard of hearing and who are not college bound;

(3) Improving the ability of individuals who are deaf or hard of hearing to be effective self-advocates in postsecondary education and training settings;

(4) Providing TA and services to individuals who are deaf or hard of hearing and their families; and

(5) Implementing evidence-based practices [1] (EBPs) and strategies designed to increase the number of individuals who are deaf or hard of hearing who, without requiring remedial coursework, are admitted to, persist in, and complete college or other postsecondary education and training;

(c) An increased body of knowledge on how to effectively utilize technology to promote access and provide accommodations (*e.g.,* high-quality captioning, note-taking, and interpreting services) for individuals who are deaf or hard of hearing in postsecondary education and training settings;

(d) Expanded dissemination of lessons learned from implementing EBPs and strategies to inform national, State, and local efforts to improve postsecondary education and training outcomes for individuals who are deaf or hard of hearing; and

(e) Improved capacity of postsecondary institutions' career planning and placement offices to serve deaf and hard of hearing individuals.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the training and information needs of postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies for better implementing evidence-based practices and strategies that will increase the number of individuals who are deaf or hard of hearing who, without remedial coursework, are admitted to, persist in, and complete college or other postsecondary education and training, including adult basic education and developmental education programs. To meet this requirement, the applicant must—

(i) Present applicable national and State data demonstrating the training needs of postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies to better implement EBPs and strategies that will increase enrollment and completion in postsecondary education and training for students who are deaf or hard of hearing; and

(ii) Identify current issues and policy initiatives in secondary transition, postsecondary education, career preparation, and employment for students who are deaf or hard of hearing; and

(2) Address the current and emerging needs of postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies for better implementing strategies to improve postsecondary education and training outcomes for students who are deaf or hard of hearing.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on the most effective ways to support students who are deaf or hard of hearing in postsecondary education and training;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and practices in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it will develop and use state-of-the-art communication tools and platforms, including virtual conferences, social media, and searchable databases, and the latest knowledge translation methods and techniques to improve postsecondary opportunities for deaf and hard of hearing individuals.

[1] For the purposes of this priority, ''evidence-based practices'' means practices that, at a minimum, demonstrate a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

(ii) Its proposed approach to universal, general TA,[2] which must identify the intended recipients, including the type and number of recipients, that will receive the products and services, a description of the products and services that the Center proposes to make available, and the expected impact of those products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,[3] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services, a description of the products and services that the Center proposes to make available, and the expected impact of those products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,[4] which must identify—

(A) The intended recipients, including the type and number of recipients from a variety of settings and geographic distribution, that will receive the products and services designed to impact the postsecondary education and training needs of individuals who are deaf or hard of hearing;

(B) Its proposed approach to measure the readiness of postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the local, district, or State level;

(C) Its proposed plan for assisting postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies to build training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for working with students, families, postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies at the State and local levels (*e.g.,* TA providers, schools, transition coordinators, guidance counselors, career and technical education educators, Department of Labor personnel, private industry, postsecondary education professionals) to ensure there is communication between each level and there are systems in place to effectively address the postsecondary education and training needs of individuals who are deaf or hard of hearing, including those who have co-occurring disabilities and those who are English learners;

(E) Its proposed plan for working with students, families, postsecondary institutions, SEAs, LEAs, State VR agencies, VR service providers, and other relevant organizations and public agencies at the State and local levels to focus on building capacity of personnel to work with non-college-bound deaf and hard of hearing individuals to build up their technical, academic, and soft skills for employment opportunities; and

(v) How the proposed project will use non-project resources to achieve the intended project outcomes.

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(7) Develop a dissemination plan that describes how the applicant will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the Center's products and services.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: Measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have met the goals for reaching its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the Office of Special Education Programs (OSEP) project officer, a project liaison with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Program and Project Performance (CIPP),[5] the project director, and the OSEP project officer on the following tasks:

(i) Revise the logic model submitted in the application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the application consistent with the revised logic model and using the most rigorous design suitable (*e.g.,* prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the

[2] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[3] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[4] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

[5] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.,* those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise the evaluation plan submitted in the application such that it clearly—

(A) Specifies the evaluation questions, measures, and associated instruments or sources for data appropriate to answer these questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completing the evaluation activities;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's evaluation (3+2 review) for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed, to specify the project performance measures to be addressed in the project's annual performance report;

(2) Dedicate sufficient staff time and other resources during the first six months of the project to collaborate with CIPP staff, including regular meetings (*e.g.,* weekly, biweekly, or monthly) with CIPP and the OSEP project officer, in order to accomplish the tasks described in paragraph (c)(1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (c)(1) and (2) of this section and revising and implementing the evaluation plan. Please note in your budget narrative the funds dedicated for this activity.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan includes a minimum 0.50 full-time equivalent (FTE) position for the project director;

(4) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(5) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A kick-off meeting either virtually or in Washington, DC, after receipt of the award, and an annual planning meeting either virtually or in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A project directors' conference either virtually or in Washington, DC, during each year of the project period;

(iii) Two annual two-day trips, either virtually or in Washington DC, to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting either virtually or in Washington, DC, during the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(5) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(6) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to a new award at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a 3+2 review team consisting of experts who have experience and knowledge in providing technical assistance to personnel who work with deaf or hard of hearing students at the postsecondary education level. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

References

Garberoglio, C.L., Guerra, D.H., Sanders, G.T., & Cawthon, S.W. (2020). Community-driven strategies for improving postsecondary outcomes of deaf people.

American Annals of the Deaf, 165(3), 369–392. *https://doi.org/*10.1353/aad.2020.0024.

Garberoglio, C.L., Palmer, J.L., Cawthon, S., & Sales, A. (2019). Deaf people and educational attainment in the United States: 2019. U.S. Department of Education, Office of Special Education Programs, National Deaf Center on Postsecondary Outcomes.

U.S. Census Bureau. (2018–2019). The American community survey public use microdata sample (2017) [dataset]. *https://www2.census.gov/programs-surveys/acs/data/pums/2017/.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1462, 1463, 1474, 1481, and 1482.

Note: Projects must be awarded and operated in a manner consistent with the nondiscrimination requirements contained in the U.S. Constitution and the Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: Three programs plan to make available a total of $4,000,000 for this competition in FY 2021: $1,300,000 from the TA&D program; $1,700,000 from the PD program; and $1,000,000 from the ETechM2 program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2022 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $4,000,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice. In each budget period of 12 months, no more than $1,300,000 may be budgeted under the TA&D program (consistent with section 663(c)(8)(C) of IDEA); no more than $1,700,000 may be budgeted under the PD program (consistent with section 662(c)(2) of IDEA); and no more than $1,000,000 may be budgeted under the ETechM2 program (consistent with section 674(b) of IDEA). Applicants must separately budget for funds under each program.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2.a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:*

a. Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

b. Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles,

headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.

- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(v) The extent to which the TA services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel.

(ii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(iii) The qualifications, including relevant training, experience, and independence, of the evaluator.

(iv) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are

eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions, and under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Promoting the freedom of speech and religious liberty in alignment with *Promoting Free Speech and Religious Liberty* (E.O. 13798) and *Improving Free Inquiry, Transparency, and Accountability at Colleges and Universities* (E.O. 13864) (2 CFR 200.300, 200.303, 200.339, and 200.341);

(d) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(e) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* For the purposes of the Government Performance and Results Act of 1993 (GPRA) and reporting under 34 CFR 75.110, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These measures are:

- *Program Performance Measure 1:* The percentage of technical assistance and dissemination products and

services deemed to be of high quality by an independent review panel of experts qualified to review the substantive content of the products and services.

• *Program Performance Measure 2:* The percentage of special education technical assistance and dissemination products and services deemed by an independent review panel of qualified experts to be of high relevance to educational and early intervention policy or practice.

• *Program Performance Measure 3:* The percentage of all special education technical assistance and dissemination products and services deemed by an independent review panel of qualified experts to be useful in improving educational or early intervention policy or practice.

• *Program Performance Measure 4:* The cost efficiency of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program includes the percentage of milestones achieved in the current annual performance report period and the percentage of funds spent during the current fiscal year.

• *Long-term Program Performance Measure:* The percentage of States receiving special education technical assistance and dissemination services regarding scientifically or evidence-based practices for infants, toddlers, children, and youth with disabilities that successfully promote the implementation of those practices in school districts and service agencies.

The measures apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the Center meet needs identified by stakeholders and may require the Center to report on such alignment in their annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

David Cantrell,

Deputy Director, Office of Special Education Programs. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2021–03971 Filed 2–25–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–1176–000]

Delta Edge Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Delta Edge Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 15, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: February 22, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–04021 Filed 2–25–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–1177–000]

Crossett Solar Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Crossett Solar Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is March 15, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: February 22, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–04025 Filed 2–25–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF21–1–000]

Western Area Power Administration; Notice of Filing

Take notice that on February 16, 2021, Western Area Power Administration submitted tariff filing: Formula Rates for Western Area Power Administration-Rate Order No. WAPA–194, to be effective 3/25/2021.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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 18, 2021.

Dated: February 22, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–04023 Filed 2–25–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD21–2–000]

Commission Information Collection Activities (FERC–725B2); Comment Request

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on revisions to the reporting and recordkeeping requirements proposed for Reliability Standards CIP–013–2 (Cyber Security—Supply Chain Risk Management), CIP–005–7 (Cyber Security—Electronic Security Perimeter(s)), and CIP–010–4 (Cyber Security—Configuration Change Management and Vulnerability

Assessments) in Docket No. RD21–2–000. The burden for the requirements will be included in FERC–725B2 (Mandatory Reliability Standards for Critical Infrastructure Protection [CIP] Reliability Standards).

DATES: Comments on the collection of information are due APRIL 27, 2021.

ADDRESSES: You may submit comments (identified by Docket No. RD21–2–000) by any of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp*
- *U.S. Postal Service (USPS):* Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.
- *Other Carriers/Couriers:* Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov* and telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–725B2, Mandatory Reliability Standards for Critical Infrastructure Protection [CIP] Reliability Standards.[1]

OMB Control No.: 1902–0304.

Type of Request: Approval of proposed changes as described in Docket No. RD21–2–000.

Abstract: The FERC–725B2 contains the following information collection elements.

Pursuant to Reliability Standard CIP–013–2 Requirement R1, responsible entities should update their supply chain risk management plans to include Electronic Access Control or Monitoring Systems and Physical Access Control Systems. The act of implementing the modified plans and procedures may result in additional documentation, as required by Reliability Standard CIP–013–2, Requirement R2. In addition to the above one-time paperwork requirements, pursuant to Reliability Standard CIP–013–1, Requirement R3, responsible entities are required to review their supply chain risk management plan and associated procedures every 15 months.

Also, implementation of the technical requirements in Reliability Standard CIP–005–7, Requirement R3.1 and Requirement R3.2 is likely to result in initial documentation burden.

Reliability Standard CIP–010–4, Requirement R1.6 will require modification of certain procedures, as well as initial implementation and documentation of said procedures. The compliance-related requirements of the above-mentioned standards will continue on an ongoing basis.

If the modified Reliability Standards become effective by April 1, 2021, the effective date of the approved Reliability Standards will be October 1, 2022.

The NERC petition was filed with the Commission on December 14, 2020. The docket was noticed on January 7 with a 21-day comment/intervention period, ending on January 28, 2021. No comments or interventions were received.

Type of Respondent: Businesses or other for-profit institutions; not-for-profit institutions

Estimate of Annual Burden:[2] The Commission estimates the total annual burden and cost[3] for this information collection in the table below. For hourly cost (for wages and benefits) for the reporting requirements, we estimate that

- 2% of the time is spent by Electrical Engineers (code 17–2071, at $70.19/hr.),
- 15% of the time is spent by Legal (code 23–0000, at $142.65/hr.),
- 31.5% of the time is spent by Information Security Analysts (Occupation Code 15–1122, at $71.47/hr.),
- 10% of the time is spent by Computer and Information Systems Managers (Occupation Code: 11–3021, at $101.58/hr.),
- 10% of the time is spent by Management (Occupation Code: 11–0000, at $97.15/hr.), and
- 31.5% of the time is spent by Management Analyst (Code: 43–0000 at $66.23/hr.). Therefore, for reporting requirements, we use the weighted hourly cost (for wages and benefits) of $86.05.

For recordkeeping requirements, for hourly cost (for wages and benefits), we are using $41.03 for Information and Record Clerks (code 43–4199).

The proposed standards are not changing the reporting or recordkeeping requirements, however the proposed standards are expanding the types of assets to which the reporting and recordkeeping requirements apply.

FERC–725B2, ESTIMATED ADDITIONAL ANNUAL BURDEN DUE TO DOCKET NO. RD21–21

Type and number of respondents[4]	Type of reporting or recordkeeping requirement	Annual number of respondents (A)	Annual number of responses per respondent (B)	Total number of annual responses (A) × (B) = (C)	Average annual burden hours & cost ($) per response D	Estimated total annual burden hrs. & cost ($) (C) × (D)
Reliability Standard CIP–013–2						
343 (BA, DP, GO, GOP, RC, TO, and TOP).	Reporting, Implementation (one-time in Year 1).	343	1	343	136 hrs.; $11,702.80	46,648 hrs.; $4,014,060.40

[1] The reporting and recordkeeping requirements proposed in Docket No. RD21–2–000 would normally be included in FERC–725B (OMB Control No. 1902–0248). However another unrelated item under FERC–725B is pending review by the Office of Management and Budget (OMB), and only one item per OMB Control No. can be pending review at a time.

We are submitting the additional requirements (and related burden estimates) described in Docket No. RD21–2–000 to OMB under the interim information collection number FERC–725B2 in order to submit the request to OMB timely. FERC–725B continues to cover the current requirements of the standards, before implementation of the additional requirements of Docket No. RD21–2–000.

[2] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[3] Costs (for wages and benefits) are based on wage figures from the Bureau of Labor Statistics (BLS) for May 2019 (at *https://www.bls.gov/oes/current/naics2_22.htm*) and benefits information issued March 19,2020 (at *https://www.bls.gov/news.release/ecec.nr0.htm*).

[4] There are 1,494 unique registered entities in the NERC compliance registry as of February 5, 2021. Of this total, we estimate that 343 entities (Balancing Authority [BA], Distribution Provider [DP], Generator Owner [GO], Generator Operator [GOP], Reliability Coordinator [RC], Transmission Owner [TO], and Transmission Operator [TOP]) will face an increased paperwork burden due to Docket No. RD21–2.

FERC–725B2, ESTIMATED ADDITIONAL ANNUAL BURDEN DUE TO DOCKET NO. RD21–21—Continued

Type and number of respondents [4]	Type of reporting or recordkeeping requirement	Annual number of respondents (A)	Annual number of responses per respondent (B)	Total number of annual responses (A) × (B) = (C)	Average annual burden hours & cost ($) per response D	Estimated total annual burden hrs. & cost ($) (C) × (D)
343 (BA, DP, GO, GOP, RC, TO, and TOP).	Reporting (ongoing starting in Year 2).	343	1	343	30 hrs.; $2,581.50	10,290 hrs.; $885,454.50
343 (BA, DP, GO, GOP, RC, TO, and TOP).	Recordkeeping (ongoing starting in Year 1).	343	1	343	5 hrs.; $205.15	1,715 hrs.; $70,366.45
Sub-Total for CIP–013–2.						58,653 hrs.; $4,969,881.35
Reliability Standard CIP–005–7						
343 (BA, DP, GO, GOP, RC, TO, and TOP).	Reporting, Implementation (one-time in Year 1).	343	1	343	12 hrs.; $1,032.60	4,116 hrs.; $354,181.80
343 (BA, DP, GO, GOP, RC, TO, and TOP).	Recordkeeping (ongoing starting in Year 1).	343	1	343	3 hrs.; $123.09	1,029 hrs.; $42,219.87
Sub-Total for CIP–005–7.						5,145 hrs.; $396,401.67
Reliability Standard CIP–010–4						
343 (BA, DP, GO, GOP, RC, TO, and TOP).	Reporting, Implementation (one-time in Yr. 1).	343	1	343	12 hrs.; $1,032.60	4116 hrs.; $354,181.80
343 (BA, DP, GO, GOP, RC, TO, and TOP).	Recordkeeping (ongoing starting in Year 1).	343	1	343	3 hrs,; $123.09?	1,029 hrs.; $42,219.87
Sub-Total for CIP–010–4.						5,145 hrs.; $396,401.67
Total Annual Burden Hrs. and Cost, due to RD21–2.						68,943 hrs.; $5,762,684.69

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) 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.

Dated: February 22, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–04007 Filed 2–25–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP21–503–000.

Applicants: National Fuel Gas Supply Corporation.

Description: National Fuel Gas Supply Corporation submits tariff filing per 154.203: Fuel Tracker Per GT&C Section 41 to be effective 4/1/2021 under RP21–503.

Filed Date: 02/19/2021.

Accession Number: 20210219–5077.

Comment Date: 5 p.m. ET 3/3/21.

Docket Numbers: RP21–504–000.

Applicants: Empire Pipeline, Inc.

Description: Empire Pipeline, Inc. submits tariff filing per 154.203: Empire Fuel Tracker per GT&C 23.6 to be effective 4/1/2021 under RP21–504.

Filed Date: 02/19/2021.

Accession Number: 20210219–5081.

Comment Date: 5 p.m. ET 3/3/21.

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 22, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–04026 Filed 2–25–21; 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 corporate filings:

Docket Numbers: EC21–54–000.
Applicants: Hamilton Liberty LLC, Hamilton Patriot LLC, Hamilton Projects Acquiror, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Hamilton Liberty LLC, et al.
Filed Date: 02/19/2021.
Accession Number: 20210219–5199.
Comment Date: 5 p.m. ET 3/12/21.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–91–000.
Applicants: Dodge Flat Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Dodge Flat Solar, LLC.
Filed Date: 02/11/2021.
Accession Number: 20210211–5214.
Comment Date: 5 p.m. ET 3/4/21.

Docket Numbers: EG21–92–000.
Applicants: Prairie State Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Prairie State Solar, LLC.
Filed Date: 02/22/2021.
Accession Number: 20210222–5093.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: EG21–93–000.
Applicants: Dressor Plains Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Dressor Plains Solar, LLC.
Filed Date: 02/22/2021.
Accession Number: 20210222–5095.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: EG21–94–000.
Applicants: Elora Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Elora Solar, LLC.
Filed Date: 02/22/2021.
Accession Number: 20210222–5094.
Comment Date: 5 p.m. ET 3/15/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–1208–002.
Applicants: David Energy Supply, LLC.
Description: Notice of Change in Status of David Energy Supply, LLC.
Filed Date: 02/19/2021.
Accession Number: 20210219–5201.
Comment Date: 5 p.m. ET 3/12/21.

Docket Numbers: ER20–1618–000.
Applicants: Red Horse Wind 2, LLC.
Description: Red Horse Wind 2, LLC submits tariff filing per 35.19a(b): Refund Report Under Docket No. ER20–1618 to be effective N/A.
Filed Date: 02/22/2021.
Accession Number: 20210222–5038.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER20–1619–000.
Applicants: Red Horse III, LLC.
Description: Red Horse III, LLC submits tariff filing per 35.19a(b): Refund Report Under Docket No. ER20–1619 to be effective N/A.
Filed Date: 02/22/2021.
Accession Number: 20210222–5039.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–461–001.
Applicants: El Paso Electric Company.
Description: El Paso Electric Company submits tariff filing per 35.17(b): Supplemental Information: Service Agreement No. 346, EPE—La Mesa PV I LLC SGIA to be effective 1/23/2021.
Filed Date: 02/22/2021.
Accession Number: 20210222–5151.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–471–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.17(b): 2021–02–22_SA 3576 Deficiency Response for MDU-Emmons Logan Wind FSA (J302 J503) to be effective 1/24/2021.
Filed Date: 02/22/2021.
Accession Number: 20210222–5165.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–965–000.
Applicants: Ventura Energy Storage, LLC.
Description: Supplement to January 28, 2021 Ventura Energy Storage, LLC tariff filing.
Filed Date: 02/22/2021.
Accession Number: 20210222–5152.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–1186–000.
Applicants: ITC Great Plains, LLC.
Description: ITC Great Plains, LLC submits tariff filing per 35.13(a)(2)(iii): Facilities Cost Recovery Service Agreement with Iron Star Wind Project, LLC to be effective 4/26/2021.
Filed Date: 02/22/2021.
Accession Number: 20210222–5041.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–1187–000.
Applicants: Dressor Plains Solar, LLC.
Description: Dressor Plains Solar, LLC submits tariff filing per 35.12: Application for Market-Based Rate Authority to be effective 4/15/2021.
Filed Date: 02/22/2021.
Accession Number: 20210222–5060.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–1188–000.
Applicants: Prairie State Solar, LLC.
Description: Prairie State Solar, LLC submits tariff filing per 35.12: Application for Market-Based Rate Authority to be effective 4/15/2021.
Filed Date: 02/22/2021.
Accession Number: 20210222–5062.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–1189–000.
Applicants: AEP Texas Inc.
Description: AEP Texas Inc. submits tariff filing per 35.13(a)(2)(iii): AEPTX–LCRA TSC El Campo Facilities Development Agreement to be effective 2/17/2021.
Filed Date: 02/22/2021.
Accession Number: 20210222–5086.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–1190–000.
Applicants: City of Dover, Delaware.
Description: City of Dover, Delaware submits tariff filing per 35.13(a)(2)(iii): Deactivation of McKee Generating Facility to be effective 6/1/2021.
Filed Date: 02/22/2021.
Accession Number: 20210222–5142.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–1191–000.
Applicants: Southwestern Electric Power Company.
Description: Southwestern Electric Power Company submits tariff filing per 35.13(a)(2)(iii): Revised and Restated Minden PSA to be effective 1/1/2018.
Filed Date: 02/22/2021.
Accession Number: 20210222–5143.
Comment Date: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–1192–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2021–02–22 Amendment—Market Parameters and Import Bidding Related to Order 831 to be effective 12/31/9998.
Filed Date: 2/22/21.
Accession Number: 20210222–5177.
Comments Due: 5 p.m. ET 3/15/21.

Docket Numbers: ER21–1193–000.
Applicants: Southwest Power Pool, Inc.
Description: Request for Limited Waiver of Tariff Provision, et al. of Southwest Power Pool, Inc.
Filed Date: 2/22/21.
Accession Number: 20210222–5198.
Comments Due: 5 p.m. ET 2/23/21.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM21–4–000.
Applicants: East Texas Electric Cooperative, Inc.
Description: Application of East Texas Electric Cooperative, Inc. to Terminate

Its Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.

Filed Date: 02/19/2021.

Accession Number: 20210219–5204.

Comment Date: 5 p.m. ET 3/19/21.

Docket Numbers: QM21–5–000.

Applicants: East Texas Electric Cooperative, Inc.

Description: Application of East Texas Electric Cooperative, Inc. to Terminate Its Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.

Filed Date: 02/22/2021.

Accession Number: 20210222–5109.

Comment Date: 5 p.m. ET 3/22/21.

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 22, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–04022 Filed 2–25–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD21–9–000]

The Office of Public Participation; Notice of Workshop and Request for Panelists

Take notice that the Federal Energy Regulatory Commission (Commission) will convene, in the above-referenced proceeding, a Commissioner-led workshop via webcast as part of an effort to establish the Office of Public Participation on April 16, 2021, from approximately 9:00 a.m. to 5:00 p.m. Eastern time.

The workshop will provide interested parties with the opportunity to provide input to the Commission on the creation of the Office of Public Participation. The Commission intends to establish and operate the Office of Public Participation to ''coordinate assistance to the public with respect to authorities exercised by the Commission,'' including assistance to those seeking to intervene in Commission proceedings, pursuant to section 319 of the Federal Power Act (FPA). 16 U.S.C. 825q–1. Congress directed the Commission to provide, by June 25, 2021, to the Committees on Appropriations of both Houses of Congress a report on the Commission's progress towards establishing the Office of Public Participation, including an organizational structure and budget for the office, beginning in fiscal year 2022.

The Commission plans to hear input on the following considerations in forming the Office of Public Participation, including: (1) The office's function and scope as authorized by section 319 of the FPA; (2) the office's organizational structure and approach, including the use of equity assessment tools; (3) participation by tribes, environmental justice communities, and other affected individuals and communities, including those who have not historically participated before the Commission; and (4) intervenor compensation. The Commission seeks nominations for stakeholder panelists to provide input about each of these areas of consideration at the workshop by March 10, 2020. Each nomination should indicate name, contact information, organizational affiliation, what issue area the proposed panelist would speak on, and suggested workshop topics to *OPPWorkshopNominations@ferc.gov.*

Supplemental notices will be issued prior to the workshop with further details regarding the agenda, panelists, meeting registration information, and electronic log-in information. The workshop will be open for the public to attend, and there is no fee for attendance. Information on the workshop will also be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event.

The Commission also plans to separately convene several listening sessions to hear from stakeholders their recommendations on creating the Office of Public Participation. A supplemental notice will be issued prior to the listening sessions with session dates and additional details.

The workshop will be accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For questions about the workshop, please contact Stacey Steep, Office of General Counsel, (202) 502–8148, *OPPWorkshop@ferc.gov,* and, for logistical issues, contact Sarah McKinley, (202) 502–8368, *sarah.mckinley@ferc.gov.*

Dated: February 22, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–04006 Filed 2–25–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9055–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed February 8, 2021 10 a.m. EST Through February 22, 2021 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20210019, Final, USA, GA, Fort Benning Heavy Off-Road Mounted Maneuver Training Area, Review Period Ends: 03/29/2021, Contact: Mr. John Brown 706–545–7549.

EIS No. 20210020, Final, USACE, CA, Prado Basin Water Conservation and Ecosystem Restoration Study, Review Period Ends: 03/29/2021, Contact: Megan Wong 213–448–4517.

EIS No. 20210021, Final Supplement, BOP, KS, Proposed Federal Correctional Institution and Federal Prison Camp Leavenworth, Kansas, Review Period Ends: 03/29/2021, Contact: Kimberly S. Hudson 202–616–2574.

EIS No. 20210022, Draft Supplement, CHSRA, CA, Bakersfield to Palmdale Project Section: Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement, Comment Period

Ends: 04/12/2021, Contact: Scott Rothenberg 916–403–6936.

Dated: February 22, 2021.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2021–03997 Filed 2–25–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1212; FRS 17489]

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 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 27, 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: 3060–1212.

Title: SDARS Political Broadcasting Requirements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1 respondent; 1 response.

Estimated Time per Response: 10 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in 47 U.S.C. 309(a) and 307(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 20 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: Although the Commission does not believe that any confidential information will need to be disclosed in order to comply with the information collection requirements, applicants are free to request that materials or information submitted to the Commission be withheld from public inspection. (See 47 CFR 0.459 of the Commission's Rules.)

Privacy Impact Assessment: No impact(s).

Needs and Uses: In 1997, the Commission imposed political broadcasting requirements on Satellite Digital Audio Broadcasting Service (''SDARS'') licensees. See Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band, 12 FCC Rcd 5754, 5792, para. 92 (1997) (''1997 SDARS Order''), FCC 97–70. The Commission stated that SDARS licensees should comply with the same substantive political debate provisions as broadcasters: The federal candidate access provision (47 U.S.C. Section 312(a)(7)) and the equal opportunities provision (47 U.S.C. Section 315). The 1997 SDARS Order imposes the following requirements on SDARS licensees:

Lowest Unit Charge: Similar to broadcasters, SDARS licensees must disclose any practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time. SDARS licensees must also calculate the lowest unit charge and are required to review their advertising records throughout the election period to determine whether compliance with this rule section requires that candidates receive rebates or credits. See 47 CFR Section 73.1942.

Political File: Similar to broadcasters, SDARS licensees must also keep and permit public inspection of a complete record (political file) of all requests for SDARS origination time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, and the charges made, if any, if the request is granted. The disposition includes the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file as soon as possible and maintained for a period of two years. See 47 CFR 73.1943.

In 2016, the Commission expanded the requirement that public inspection files be posted to the FCC-hosted online public file database to SDARS licensees, among other entities. These public files include the political files.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–03935 Filed 2–25–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FRS 17477]

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 27, 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: Legacy Support Usage Flexibility Certification.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: Up to 110 respondents and 110 responses.

Estimated Time per Response: 1.75 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 254 and 303(r).

Total Annual Burden: 193 hours.

Total Annual Cost: $16,500.

Nature and Extent of Confidentiality: The information collected under this collection will be made publicly available. However, to the extent that a respondent seeks to have certain information collected in response to this information collection withheld from public inspection, the respondent may request confidential treatment pursuant to 47 CFR 0.459 of the Commission's rules, 47 CFR Section 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: A request for approval of this new information collection will be submitted to the Office of Management and Budget (OMB) after this 60-day comment period in order to obtain the full three-year clearance from OMB.

On November 18, 2011, the Commission released the *USF/ICC Transformation Order* (FCC 11–161) in which it comprehensively reformed and modernized the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. In the *USF/ICC Transformation Order,* the Commission, among other things, adopted a requirement that all ETCs offer broadband service in their supported area that meets certain basic performance requirements and report regularly on associated performance measures as a condition of receiving federal high-cost universal service support.

On October 27, 2020, the Commission adopted the *5G Fund Report and Order* (FCC 20–150) in which it, among other things, helped to complete the reform of the high-cost program begun in the *USF/ICC Transformation Order* by adopting additional public interest obligations and performance requirements for legacy high-cost support recipients, whose broadband-specific public interest obligations for mobile wireless services were not previously detailed. The public interest obligations adopted in the *5G Fund Report and Order* for each competitive eligible telecommunications carrier (ETC) receiving legacy high-cost support for mobile wireless services require that such a carrier (1) use an increasing percentage of its legacy support toward the deployment, maintenance, and operation of voice and broadband networks that support 5G meeting the adopted performance requirements within its subsidized service area(s), and (2) meet specific 5G broadband service deployment coverage requirements and service deployment milestone deadlines that take into consideration the amount of legacy support the carrier receives. With respect to the requirement to use an increasing percentage of its legacy support toward the deployment, maintenance, and operation of voice and broadband networks that support 5G, the rules adopted in the *5G Fund Report and Order* specify that each legacy support recipient must use at least one-third of the legacy support it receives in 2021, at least two-thirds of the legacy support it receives in 2022, and all of the legacy support in 2023 and beyond for these purposes.

To address a concern that budgets and deployment plans for 2021 are largely complete, which could make it difficult for some competitive ETCs to achieve the 2021 support usage requirement, the Commission adopted a rule that affords such competitive ETCs the flexibility to use less than one-third of their legacy support in 2021 and make up for any shortfall in 2021 by proportionally increasing the requirement in 2022 (above the two-thirds of its support the competitive ETC is required to spend on 5G in that year). *See* 47 CFR 54.322(c)(4). In order to take advantage of this flexibility, a competitive ETC receiving legacy support for mobile wireless services must submit a certification in which it (1) provides information regarding the service area(s) for which it and any affiliated mobile competitive ETC(s) receive legacy support and the annual amount of support they receive in each area; (2) indicates the total amount of legacy high-cost support to be spent on the deployment, maintenance, and operation of mobile networks that provide 5G service in calendar year 2021 across the identified service areas; and (3) certifies that any 2021 spending shortfall will be made up in 2022. Only those competitive ETCs receiving legacy high-cost support for mobile wireless services that wish to avail themselves of the flexibility concerning their 2021 and 2022 legacy high-cost support usage requirements will be required to respond to this information collection.

The certification will be used by the Commission to identify how much a competitive ETC that chooses to avail itself of the flexibility concerning its 2021 and 2022 legacy high-cost support usage requirements will spend on 5G in 2021 and the spending shortfall it must make up in 2022, and to confirm the competitive ETC's commitment to make up its 2021 spending shortfall in 2022 in accordance with its certification and the Commission's rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–03933 Filed 2–25–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1255; FRS 17498]

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 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 comments should be submitted on or before April 27, 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 contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *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: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC 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.

OMB Control Number: 3060–1255.

Title: Rules and Policies Regarding Calling Number Identification Service—Caller ID, CC Docket No. 91–281.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 46,291 respondents; 1,705 responses.

Estimated Time per Response: .083 hours (5 minutes).

Frequency of Response: Monthly and on-going reporting requirements.

Obligation to Respond: Required to obtain or retain benefit. The statutory authority for the information collection requirements is found at section 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. 201(b), and section 222, 47 U.S.C. 222. The Commission's implementing rules are codified at 47 CFR 64.1600–01.

Total Annual Burden: 142 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission amended rules requiring that carriers honor privacy requests to state that § 64.1601(b) of the Commission's rules shall not apply when calling party number (CPN) delivery is made in connection with a threatening call. Upon report of such a threatening call by law enforcement on behalf of the threatened party, the carrier will provide any CPN of the calling party to law enforcement and, as directed by law enforcement, to security personnel for the called party for the purpose of identifying the party responsible for the threatening call. Carriers now have a recordkeeping requirement in order to quickly provide law enforcement with information relating to threatening calls.

The Commission also amended rules to allow non-public emergency services to receive the CPN of all incoming calls from blocked numbers requesting assistance. The Commission believes amending its rules to allow non-public emergency services access to blocked Caller ID promotes the public interest by ensuring timely provision of emergency services without undermining any countervailing privacy interests. Carriers now have a recordkeeping requirement in order to provide emergency serve providers with the information they need to assist callers.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–03936 Filed 2–25–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1158; FRS 17472]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, 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. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission 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 comments and recommendations for the proposed information collection should be submitted on or before March 29, 2021.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) 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; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) 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. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–1158.

Title: Transparency Rule Disclosures, Restoring internet Freedom, Report and Order, WC Docket No. 17–108.

Form Number: N/A.

Type of Review: Extension of a currently-approved collection.

Respondents: Business or other for-profit entities, Not-for-profit entities; State, local, or Tribal governments.

Number of Respondents and Responses: 2,165 respondents; 2,165 responses.

Estimated Time per Response: 26 hours.

Frequency of Response: On occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for these collections is contained in Section 257 of the Communications Act of 1934, as amended, 47 U.S.C. Section 257.

Total Annual Burden: 56,290 hours.

Total Annual Cost: $510,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: The Restoring Internet Freedom Report and Order (Restoring Internet Freedom Order) revised the information collection requirements applicable to internet service providers (ISPs). The Open Internet Order, adopted in 2010, required ISPs to disclose certain network management processes, performance characteristics, and other attributes of broadband internet access service. These disclosure requirements were significantly increased by the Title II Order, adopted in 2015. The Restoring Internet Freedom Order eliminated the additional collection imposed by the Title II Order, and added a few discrete elements to the Open Internet Order's information collection requirements. The Restoring Internet Freedom Order requires an ISP to publicly disclose network management practices, performance, and commercial terms of its broadband internet access service sufficient to enable consumers to make informed choices regarding the purchase and use of such services, and entrepreneurs and other small businesses to develop, market, and maintain internet offerings. As part of these disclosures, the rule requires ISPs to disclose their congestion management, application-specific behavior, device attachment rules, and security practices, as well as any blocking, throttling, affiliated prioritization, or paid prioritization in which they engage. The rule also requires ISPs to disclose performance characteristics, including a service description and the impact of nonbroadband internet access services data services. Finally, the rule requires ISPs to disclose the price of the service, privacy policies, and redress options. The rule requires ISPs to make such disclosures available either via a publicly-available, easily accessible website or through transmittal to the Commission, which will make such disclosures available via a publicly-available, easily accessible website. The information collection will assist the Commission in its statutory obligation to report to Congress on market entry barriers in the telecommunications market. The Commission anticipates that the revised disclosures would empower consumers and businesses with information about their broadband internet access service, protecting the openness of the internet. Although this collection was bifurcated in 2016 with respect to fixed and mobile ISPs, the Commission seeks to have this collection encompass both fixed and mobile ISPs.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–04027 Filed 2–25–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1254; FRS 17482]

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 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 27, 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: 3060–1254.

Title: Next Gen TV/ATSC 3.0 Local Simulcasting Rules; 47 CFR 73.3801 (full-power TV), 73.6029 (Class A TV), and 74.782 (low-power TV) and FCC Form 2100 (Next Gen TV License Application).

Form Number: FCC Form 2100 (Next Gen TV License Application).

Respondents: Business or other for-profit entities, state, local, or tribal government and not for profit institutions.

Number of Respondents and Responses: 1,130 respondents; 4,760 responses.

Estimated Time per Response: 0.017–8 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 1, 4, 7, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 157, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535.

Total Annual Burden: 3,504 hours.

Total Annual Cost: $130,500.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection.

Needs and Uses: The authorization covered under this collection is subject to broadcasters continuing to deliver current-generation digital television (DTV) service, using the ATSC 1.0 transmission standard, also called ''ATSC 1.0'' or ''1.0,'' to their viewers. The requirement to continue to provide ATSC 1.0 service is called ''local simulcasting.'' The local simulcasting rules (47 CFR 73.3801(full-power TV), 73.6029 (Class A TV), and 74.782 (low-power TV)), contain the following information collection requirements which require OMB approval.

License Application to FCC/FCC Form 2100 (Reporting Requirement; 47 CFR 73.3801(f), 73.6029(f), and 74.782(g)): A broadcaster must file an application (FCC Form 2100) with the Commission, and receive Commission approval, before: (i) Moving its ATSC 1.0 signal to the facilities of a host station, moving that signal from the facilities of an existing host station to the facilities of a different host station, or discontinuing an ATSC 1.0 guest signal; (ii) commencing the airing of an ATSC 3.0 signal on the facilities of a host station (that has already converted to ATSC 3.0 operation), moving its ATSC 3.0 signal to the facilities of a different host station, or discontinuing an ATSC 3.0 guest signal; or (iii) converting its existing station to transmit an ATSC 3.0 signal or converting the station from ATSC 3.0 back to ATSC 1.0 transmissions. As directed by the Commission, the Media Bureau will be amending FCC Form 2100 and the relevant schedules (Schedules B, D & F) (See Schedule B—Full Power License to cover application (OMB control number 3060–0837); Schedule D—LPTV/Translator License to cover application (OMB control number 3060–0017); and Schedule F—Class A License to cover application (OMB control number 3060–0928)) as necessary to implement the Next Gen TV licensing process and collect the required information (detailed below). The form will be revised to establish the streamlined ''one-step'' licensing process for Next Gen TV applicants, including adding the above listed purposes (i–iii) to the form. FCC staff will use the license application to determine compliance with FCC rules and to determine whether the public interest would be served by grant of the application for a Next Gen TV station license.

Next Gen TV Broadcaster On-Air Notices to Consumers (Third-Party Disclosure Requirement; 47 CFR 73.3801(g), 73.6029(g), and 74.782(h)): Commercial and noncommercial educational (NCE) broadcast TV stations that relocate their ATSC 1.0 signals (*e.g.,* moving to a host station's facility, subsequently moving to a different host, or returning to its original facility) are required to air daily Public Service Announcements (PSAs) or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations on their existing facilities. Stations that transition directly to ATSC 3.0 will be required to air daily PSAs or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations. Broadcaster on-air notices to consumers will be used to inform consumers if stations they watch will be changing channels and encouraged to rescan their receivers for new channel assignments.

Next Gen TV Broadcaster Written Notices to MVPDs (Third-Party Disclosure Requirement; 47 CFR 73.3801(h), 73.6029(h), and 74.782(i)): Next Gen TV stations relocating their ATSC 1.0 signals (*e.g.,* moving to a temporary host station's facilities, subsequently moving to a different host, or returning to its original facility) must provide notice to MVPDs that: (i) No longer will be required to carry the station's ATSC 1.0 signal due to the relocation; or (ii) carry and will continue to be obligated to carry the station's ATSC 1.0 signal from the new location. Broadcaster notices to multichannel video programming distributors (MVPDs) will be used to notify MVPDs that carry a Next Gen TV broadcast station about channel changes and facility information.

Local Simulcasting Agreements (Recordkeeping Requirement; 47 CFR 73.3801(e), 73.6029(e), and 74.782(f)): Broadcasters must maintain a written copy of any local simulcasting agreement and provide it to the Commission upon request. FCC staff will review the local simulcasting agreement (when applicable) to determine compliance with FCC rules and to determine whether the public interest would be served by grant of the application for a Next Gen TV station license.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–03934 Filed 2–25–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1147; FRS 17499]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, 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. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission 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 comments and recommendations for the proposed information collection should be submitted on or before March 29, 2021.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) 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; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) 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. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control No.: 3060–1147.

Title: Wireless E911 Location Accuracy Requirements (Third Report and Order in PS Docket No. 07–114).

Form Nos.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, State, Local or Tribal government, and Federal Government.

Number of Respondents and Responses: 4,477 respondents; 4,793 responses.

Estimated Time per Response: 1 hour–8 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection is contained in 47 U.S.C. Sections 151, 154(i), 301, 303(r), and 332 of the Communications Act, as amended.

Total Annual Burden: 32,492 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: No confidentiality is required for this collection.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval for an extension of this information collection and will submit this information collection after this 60-day comment period.

The Commission's *Third Report and Order* in PS Docket No. 07–114 adopted a rule providing that new CMRS network providers meeting the definition of covered CMRS providers in Section 9.10 and deploying new stand-alone networks must meet the handset-based location accuracy standard in delivering emergency calls for Enhanced 911 service. The rule requires that new stand-alone CMRS providers must satisfy the handset-based location accuracy standard at either a county-based or Public Safety Answering Point (PSAP)-based geographic level. Additionally, in accordance with the pre-existing requirements for CMRS providers using handset-based location technologies, new stand-alone CMRS providers are permitted to exclude up to 15 percent of the counties or PSAP areas they serve due to heavy forestation that limits handset-based technology accuracy in those counties or areas but are required to file a an initial list of the specific counties or portions of counties where they are utilizing their respective exclusions.

A. *Updated Exclusion Reports.* Under this information collection and pursuant to current rule section 9.10(h) new stand-alone CMRS providers and existing CMRS providers that have filed initial exclusion reports are required to file reports informing the Commission of any changes to their exclusion lists within thirty days of discovering such changes. The permitted exclusions properly but narrowly account for the known technical limitations of either the handset-based or network-based location accuracy technologies chosen by a CMRS provider, while ensuring that the public safety community and the public at large are sufficiently informed of these limitations.

B. *Confidence and Uncertainty Data.* Under this information collection and

pursuant to current rule section 9.10(h), all CMRS providers and other entities responsible for transporting confidence and uncertainty data between the wireless carriers and PSAPs, including LECs, CLECs, owners of E911 networks, and emergency service providers (collectively, System Service Providers (SSPs)) must continue to provide confidence and uncertainty data of wireless 911 calls to Public Safety Answering Points (PSAP) on a per call basis upon a PSAP's request. New stand-alone wireless carriers also incur this obligation. The transport of the confidence and uncertainty data is needed to ensure the delivery of accurate location information with E911 service.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–04029 Filed 2–25–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[OMB No. 3064–0082 –0084]

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below (OMB Control No. 3064–0082; –0084).

DATES: Comments must be submitted on or before April 27, 2021.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *https://www.FDIC.gov/regulations/laws/federal.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: *Proposal to renew the following currently approved collections of information:*

1. *Title:* Recordkeeping, Disclosure and Reporting Requirements in Connection with Regulation Z.

OMB Number: 3064–0082.

Form Number: None.

Affected Public: FDIC-supervised institutions.

Burden Estimate: The total estimated annual burden is 2,395,630 hours (36 hours estimated implementation burden, plus 2,395,594 hours estimated ongoing burden). The burden estimate is detailed on the following tables:

IMPLEMENTATION (ONE-TIME) BURDEN ESTIMATE

	Obligation to respond/ type of burden	Estimated number of respondents[1]	Estimated average number of credit accounts	Frequency of response	Number of responses	Estimated time per response (minutes)	Total estimated annual burden (hours)
Open-End Credit Products • Not Home-Secured Open-End Credit Plans							
Credit and Charge Card Provisions:							
Timely Settlement of Estate Debts (1026.11(c)(1)) Written Policies and Procedures.	Mandatory Recordkeeping.	1	N/A	1	1	480.00	8
Ability to Pay (1026.51(a)(ii)) Written Policies and Procedures.	Mandatory Recordkeeping.	1	N/A	1	1	480.00	8
Mortgage Products (Open and Closed-End) • Valuation Independence							
Mandatory Reporting:							
Implementation of Policies and Procedures (1026.42(g)).	Mandatory Recordkeeping.	1	N/A	1	0	1,200.00	20
Total Estimated Implementation Burden	.....	.....	.....	.....	.....	.....	36

[1] FDIC estimates that all existing FDIC-supervised institutions have implemented the policies and procedures required by Regulation Z and will only face the estimated ongoing (transaction) burdens reflected in the Ongoing Burden Estimate table. The respondent count of 1 is intended as a placeholder for the associated burden estimate to account for any institution(s) that may become subject to the information collection requirements in the future.

ONGOING BURDEN ESTIMATE

	Obligation to respond/ type of burden	Estimated number of respondents[1]	Estimated average number of credit accounts	Frequency of response	Number of responses	Estimated time per response (minutes)	Total estimated annual burden (hours)
Open-End Credit Products • Not Home-Secured Open-End Credit Plans							
General Disclosure Rules for Not Home-Secured Open-End Credit Plans:							
Credit and Charge Card Applications and Solicitations (1026.60).	Mandatory Disclosure	634	N/A	1	634	480.00	5,072
Account Opening Disclosures (1026.6(b))	Mandatory Disclosure	634	N/A	1	634	720.00	7,608
Periodic Statements (1026.7(b))	Mandatory Disclosure	634	N/A	12	7,608	480.00	60,864
Annual Statement of Billing Rights (1026.9(a)(1)).	Mandatory Disclosure	317	N/A	1	317	480.00	2,536
Alternative Summary Statement of Billing Rights (1026.9(a)(2)).	Voluntary Disclosure	317	N/A	12	3,804	480.00	30,432
Change in Terms Disclosures (1026.9(b) through (h)).	Mandatory Disclosure	634	N/A	1	634	480.00	5,072
Credit and Charge Card Provisions:							
Timely Settlement of Estate Debts (1026.11(c)(2)).	Mandatory Disclosure	634	428	1	271,352	5.00	22,613
Ability to Pay (1026.51)	Mandatory Record-keeping.	634	N/A	1	634	720.00	7,608
College Student Credit Annual Report (1026.57(d)).	Mandatory Reporting	634	N/A	1	634	480.00	5,072
Submission of Credit Card Agreements (1026.58(c)).	Mandatory Reporting	634	N/A	4	2,536	180.00	7,608
Internet Posting of Credit Card Agreements (1026.58(d)).	Mandatory Disclosure	634	N/A	4	2,536	360.00	15,216
Individual Credit Card Agreements (1026.58(e)).	Mandatory Disclosure	634	125	1	79,250	15.00	19,813
• Home Equity Open-End Credit Plans (HELOC) • General Disclosure Rules for HELOC's:							
Application Disclosures (1026.40)	Mandatory Disclosure	2,717	N/A	1	2,717	720.00	32,604
Account Opening Disclosures (1026.6(a))	Mandatory Disclosure	2,717	N/A	1	2,717	720.00	32,604
Periodic Statements (1026.7(a))	Mandatory Disclosure	2,717	N/A	1	2,717	480.00	21,736
Annual Statement of Billing Rights (1026.9(a)(1)).	Mandatory Disclosure	2,717	N/A	1	2,717	480.00	21,736
Alternative Summary Statement of Billing Rights (1026.9(a)(2)).	Voluntary Disclosure	2,717	N/A	1	2,717	480.00	21,736
Change in Terms Disclosures (1026.9(b) through (h)).	Mandatory Disclosure	2,717	N/A	1	2,717	480.00	21,736
Notice to Restrict Credit (1026.9(c)(1)(iii); .40(f)(3)(i) and (vi)).	Mandatory Disclosure	2,717	N/A	1	2,717	120.00	5,434
• All Open-End Credit Plans							
Error Resolution (1026.13)	Mandatory Disclosure	3,624	2,963	1	10,737,912	1.0	178,965
Closed-End Credit Products • General Rules for Closed-End Credit							
Other than Real Estate, Home-Secured and Private Education Loans (1026.17 and .18).	Mandatory Disclosure	1	N/A	1	1	720.00	12
• Closed-End Mortgages							
Application and Consummation:							
Loan Estimate (1026.19(e); and .37)	Mandatory Disclosure	3,628	N/A	1	3,628	480.00	29,024
Closing Disclosure (1026.19(f); and .38)	Mandatory Disclosure	3,628	N/A	1	3,628	480.00	29,024
Record Retention of Disclosures (1026.19(e), (f); .37; and .38).	Mandatory Record-keeping.	3,628	N/A	1	3,628	18.00	1,088
Post-Consummation Disclosures:							
Interest Rate and Payment Summary (1026.18(s)).	Mandatory Disclosure	3,628	N/A	1	3,628	2,400.00	145,120
No Guarantee to Refinance Statement (1026.18(t)).	Mandatory Disclosure	3,628	N/A	1	3,628	480.00	29,024
ARMs Rate Adjustments with Payment Change Disclosures (1026.20(c)).	Mandatory Disclosure	3,628	N/A	1	3,628	90.00	5,442
Initial Rate Adjustment Disclosure for ARMs (1026.20(d)).	Mandatory Disclosure	3,628	N/A	1	3,628	120.00	7,256
Escrow Cancellation Notice (1026.20(e))	Mandatory Disclosure	3,628	N/A	1	3,628	480.00	29,024
Periodic Statements (1026.41)	Mandatory Disclosure	3,628	N/A	1	3,628	480.00	29,024
Ability to Repay Requirements:							
Minimum Standards (1026.43(c) through (f))	Mandatory Record-keeping.	3,628	926	1	3,359,528	15.00	839,882
Prepayment Penalties (1026.43(g))	Mandatory Disclosure	3,628	16	1	58,048	12.00	11.610

ONGOING BURDEN ESTIMATE—Continued

	Obligation to respond/ type of burden	Estimated number of respondents[1]	Estimated average number of credit accounts	Frequency of response	Number of responses	Estimated time per response (minutes)	Total estimated annual burden (hours)
Mortgage Products (Open and Closed-End) • Mortgage Servicing Disclosures							
Payoff Statements:.							
Payoff Statements (1026.36(c)(3))	Mandatory Disclosure	3,628	N/A	1	3,628	480.00	29,024
Notice of Sale or Transfer: Notice of Sale or Transfer (1026.39)	Mandatory Disclosure	3,628	N/A	1	3,628	480.00	29,204
• Valuation Independence Mandatory Reporting:							
Reporting Appraiser Noncompliance (1026.42(g)).	Mandatory Reporting	3,628	1	1	3,628	10.00	605
Reverse and High-Cost Mortgages • Reverse Mortgages							
Reverse Mortgage Disclosures: Reverse Mortgage Disclosures (1026.31(c)(2) and .33).	Mandatory Disclosure	14	N/A	1	14	1,440.00	336
• High-Cost Mortgage Loans							
HOEPA Disclosures and Notice: HOEPA Disclosures and Notice (1026.32(c)	Mandatory Disclosure	3,628	N/A	1	3,628	14.00	847
Private Education Loans • Initial Disclosures							
Application and Solicitation Disclosures: Application or Solicitation Disclosures (1026.47(a)).	Mandatory Disclosure	3,561	N/A	1	3,561	3,600.00	213,660
Approval Disclosures: Approval Disclosures (1026.47(b))	Mandatory Disclosure	3,561	N/A	1	3,561	3,600.00	213,660
Final Disclosures: Final Disclosures (1026.47(c))	Mandatory Disclosure	3,561	N/A	1	3,561	3600.00	213,660
Advertising Rules • All Credit Types							
Open-End Credit: Open-End Credit (1026.16)	Mandatory Disclosure	3,624	5	1	18,120	20.00	6,040
Closed-End Credit: Closed-End Credit (1026.24)	Mandatory Disclosure	3,628	5	1	18,140	20.00	6,047
Record Retention • Evidence of Compliance							
Regulation Z in General (1026.25)	Mandatory Recordkeeping.	3,652	N/A	1	3,652	18.00	1,096
Total Estimated Ongoing Burden							2,395,594
Total Estimated Annual Burden							2,395,630

General Description of Collection: Consumer Financial Protection Bureau (CFPB) Regulation Z—12 CFR 1026 implements the Truth in Lending Act (15 U.S.C. 1601, *et seq.*) and certain provisions of the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*). This regulation prescribes uniform methods for computing the cost of credit, the disclosure of credit terms and costs, the resolution of errors and imposes various other recordkeeping, reporting and disclosure requirements. The FDIC has enforcement authority on the requirements of the CFPB's Regulation over the financial institutions it supervises. This information collection captures the recordkeeping, reporting and disclosure burdens of Regulation Z on FDIC-supervised institutions.

To arrive at the estimated annual burden the FDIC assessed the number of potential respondents to the information collection by identifying the number of FDIC-supervised institutions who reported activity that would be within the scope of the information collection requirements according to data from the most recent CALL Report. Additionally, the FDIC estimated the frequency of responses to the recordkeeping, reporting, or disclosure requirements by assessing the dollar volume of activity that would be within the scope of the information collection. In some instances the FDIC used information provided by other sources to estimate the magnitude and scope of activity attributable to FDIC-supervised institutions when more immediate information sources did not exist.

2. *Title:* Account Based Disclosures in Connection with Consumer Financial Protection Bureau Regulations E and DD and Federal Reserve Regulation CC.

OMB Number: 3064–0084.

Form Number: None.

Affected Public: FDIC-supervised institutions.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

	Type of burden	Obligation to respond	Estimated number of respondents	Estimated time per response (hours)	Estimated frequency	Frequency of response	Total annual estimated burden
Reg. E—12 C.F.R. Part 1005							
Initial disclosures:							
General (1005.7(b))	Disclosure	Mandatory	3,674	0.025	83	On Occasion	7,624
Payroll cards (1005.18(c)(1))	Disclosure	Mandatory	6	0.025	5,000	On Occasion	750
Change-in-terms (1005.8(a))	Disclosure	Mandatory	3,674	0.017	113	On Occasion	6,919
Transaction disclosures (sections 1005.9(a) and 1005.10).	Disclosure						0
Periodic statements (section 1005.9(b))	Disclosure						0
Error resolution rules:							
General (1005.8(b) and 1005.11)	Disclosure	Mandatory	3,674	0.500	3	On Occasion	5,511
Payroll cards (1005.18)	Disclosure	Mandatory	6	0.500	8	On Occasion	24
Overdraft opt-in disclosures (1005.17, FRB R–1343):							
Revise and update initial disclosures (1005.17(c)(2)) for new customers.	Disclosure	Mandatory	3,625	16.000	1	On Occasion	58,000
Prepare and send new opt-in notices to existing customers (1005.17(c)(1)).	Disclosure	Mandatory	3,625	16.000	1	On Occasion	58,000
Consumer response (section 1005.17)	Recordkeeping	Voluntary	3,625	0.083	7,207	On Occasion	2,177,115
Gift card/gift certificate (section 1005.20, FRB R–1377):							
Exclusion policies & procedures (1005.20(b)(2)) one-time.	Recordkeeping	Mandatory	6	40.000	1	On Occasion	240
Exclusion policies & procedures (1005.20(b)(2)) ongoing.	Recordkeeping	Mandatory	6	8.000	1	On Occasion	48
Policy & procedures (1005.20(e)(1)) one-time	Recordkeeping	Mandatory	6	40.000	1	On Occasion	240
Policy & procedures (1005.20(e)(1)) ongoing	Recordkeeping	Mandatory	6	8.000	1	On Occasion	48
Systems change to implement disclosure update (1005.20(e)(3)).	Disclosure	Mandatory	6	40.000	1	On Occasion	240
Subtotal Reg. E Burden							2,314,759

General Description of Collection: Regulations E & DD (Consumer Financial Protection Bureau's Regulations) and Regulation CC (the Federal Reserve's Regulation) ensure adequate disclosures regarding accounts, including electronic fund transfer services, availability of funds, and fees and annual percentage yield for deposit accounts. Generally, the Regulation E disclosures are designed to ensure consumers receive adequate disclosure of basic terms, costs, and rights relating to electronic fund transfer (EFT) services provided to them so that they can make informed decisions. Institutions offering EFT services must disclose to consumers certain information, including: Initial and updated EFT terms, transaction information, the consumer's potential liability for unauthorized transfers, and error resolution rights and procedures.

Like Regulation E, Regulation CC has consumer protection disclosure requirements. Specifically, Regulation CC requires depository institutions to make funds deposited in transaction accounts available within specified time periods, disclose their availability policies to customers, and begin accruing interest on such deposits promptly. The disclosures are intended to alert customers that their ability to use deposited funds may be delayed, prevent unintentional (and costly) overdrafts, and allow customers to compare the policies of different institutions before deciding at which institution to deposit funds. Depository institutions must also provide an awareness disclosure regarding substitute checks. The regulation also requires notice to the depositary bank and to a customer of nonpayment of a check. Regulation DD also has similar consumer protection disclosure requirements that are intended to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield, and other account terms. Regulation DD requires depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods. It also contains rules about advertising deposit accounts. There is no change in the method or substance of the collection. The overall reduction in burden hours is the result of economic fluctuation and the reduced number of FDIC-supervised institutions since the last submission in 2014. In particular, the number of respondents has decreased while the hours per response and frequency of responses have remained the same.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on February 23, 2021.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2021–04046 Filed 2–25–21; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT:86 FR 10074.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Tuesday, February 23, 2021 at 10:00 a.m. and its continuation at the conclusion of the open meeting on February 25, 2021.

CHANGES IN THE MEETING: This meeting will also discuss: Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

CONTACT FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2021–04167 Filed 2–24–21; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 201355.

Agreement Name: NPDL/PFLG Slot Charter Agreement.

Parties: Pacific Forum Line (Group) Limited and Neptune Pacific Direct Line Pte. Ltd.

Filing Party: David Monroe; GKG Law, P.C.

Synopsis: The Agreement authorizes Neptune Pacific Direct Line to charter space to Pacific Forum Line Group in the South Pacific trades.

Proposed Effective Date: 2/16/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/39509.

Agreement No.: 201356.

Agreement Name: PFLG/NPDL Slot Charter Agreement.

Parties: Pacific Forum Line (Group) Limited and Neptune Pacific Direct Line Pte. Ltd.

Filing Party: David Monroe; GKG Law, P.C.

Synopsis: The Agreement authorizes Pacific Forum Line Group to charter space to Neptune Pacific Direct Line in the South Pacific trades.

Proposed Effective Date: 2/16/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/39510.

Agreement No.: 012161–003.

Agreement Name: Siem Car Carriers AS/Hyundai Glovis Co., Ltd. Space Charter Agreement.

Parties: Siem Car Carriers AS and Hyundai Glovis Co., Ltd.

Filing Party: Elizabeth Lowe; Venable LLP.

Synopsis: The amendment updates the geographic scope of the Agreement, clarifies the terms of charter, and makes administrative updates to the Agreement.

Proposed Effective Date: 2/19/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/317.

Agreement No.: 010979–066.

Agreement Name: Caribbean Shipowners Association.

Parties: Seaboard Marine, Ltd.; Crowley Caribbean Services LLC; Tropical Shipping & Construction Company Limited, LLC;, Hybur Ltd.; and King Ocean Services Limited.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment changes the name of Tropical Shipping and Construction.

Proposed Effective Date: 2/16/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1194.

Agreement No.: 011953–014.

Agreement Name: Florida Shipowners Group Agreement.

Parties: Crowley Caribbean Services LLC; Hybur Ltd.; King Ocean Services Limited; Seaboard Marine, Ltd.; and Tropical Shipping & Construction Company Limited, LLC.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment changes the name of Tropical Shipping and Construction and deletes CMA CGM and Zim Integrated Shipping Services as parties to the agreement.

Proposed Effective Date: 2/16/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/521.

Dated: February 22, 2021.

Rachel E. Dickon,

Secretary.

[FR Doc. 2021–03956 Filed 2–25–21; 8:45 am]

BILLING CODE 6730–02–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 29, 2021.

A. Federal Reserve Bank of Atlanta (Kathryn Haney, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Sunstate Bancshares, Inc., Miami, Florida;* to become a bank holding company by acquiring Sunstate Bank, also of Miami, Florida.

Board of Governors of the Federal Reserve System, February 22, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–03952 Filed 2–25–21; 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 15, 2021.

A. Federal Reserve Bank of San Francisco (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105–1579:

1. *Hamad Abdulmohsen Almarzouq, Abeer Abdullah Alsemait, Abdulaziz Yacoub Alnafisi, Ahmad Abdulaziz Alnafisi, Aljuohara Abdulaziz Alnafisi, Dalal Abdulaziz Alnafisi, Farah Abdulaziz Alnafisi, all of Yarmook, Kuwait;*

Ghaida Husain Alhusain, Duaij Khalifah Khalaf Alenezi, Samir Yaqoub Alnafisi, Suliman Khalifah Khalaf Alenezi, all of Kuwait City, Kuwait;

Abrar Khaled Alsabah, Jaber Khaled Alsabah, Ohoud Salem Alsabah, Salem Khaled Alsabah, Shaikhah Khaled Alsabah, all of Qortuba, Al Asimah, Kuwait;

Khalid Abdullah Alsumait, Shatha Abdullah Alsamait, both of Dahiya Abdullah Salem, Kuwait;

Areej Abdullah Alsamait, Shuwaikh, Kuwait; and

Issam Abdulmohsen Almarzooq, Abdullah Alsalem, Kuwait; as a group acting in concert to acquire voting shares of Greater Pacific Bancshares, and thereby indirectly acquire voting shares of Bank of Whittier, National Association, both of Whittier, California.

Board of Governors of the Federal Reserve System, February 22, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–03953 Filed 2–25–21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Notification of Amendment to the Rules of Organization; Federal Open Market Committee

AGENCY: Federal Open Market Committee, Federal Reserve System.

SUMMARY: The Federal Open Market Committee amended its Rules of Organization to replace the terms ''Chairman'' and ''Vice Chairman'' with ''Chair'' and Vice Chair,'' respectively.

DATES: The amendments to the Rules of Organization became effective on February 17, 2021.

FOR FURTHER INFORMATION CONTACT: Matthew Luecke, Deputy Secretary of the Federal Open Market Committee, (202) 452–2576, 20th and C Streets NW, Washington, DC 20551; or Alye S. Foster, Deputy Associate General Counsel (202–452–5289), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: The Federal Open Market Committee (Committee) has replaced the references in its Rules of Organization to ''Chairman'' and ''Vice Chairman,'' with ''Chair'' and ''Vice Chair,'' respectively. Although the terms ''Chairman'' and ''Vice Chairman'' are referenced in the Federal Reserve Act, traditionally these terms have been used to refer to persons regardless of gender. As the terms are not intended to be and, in practice, are not gender-specific, the Committee is replacing the terms ''Chairman'' and ''Vice Chairman'' in the Committee's Rules of Organization with their gender-neutral equivalents of ''Chair'' and ''Vice Chair,'' respectively. This change also aligns the Committee's Rules of Organization with its practice.

The Committee has incorporated the amendments into the Committee's Rules of Organization, which are uncodified regulations for use by the Committee and are issued pursuant to 5 U.S.C. 552. Because the amendments relate solely to the internal organization, procedure, or practice of the Committee, the public notice, public comment, and delayed effective date provisions of the Administrative Procedure Act do not apply. *See* 5 U.S.C. 553(b) and (d).

For the reasons discussed above the Committee has amended its Rules of Organization as follows:

All references to ''Chairman'' and ''Vice Chairman'' are revised to read ''Chair'' and ''Vice Chair,'' respectively, wherever they appear.

By order of the Federal Open Market Committee.

Matthew M. Luecke,

Deputy Secretary, Federal Open Market Committee.

[FR Doc. 2021–04040 Filed 2–25–21; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHACHSPT)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC and the Health Resources and Services Administration (HRSA), announces the following meeting for the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHACHSPT). This meeting is open to the public, limited only by audio and web conference lines (1,000 audio and web conference lines are available). The public is welcome to listen to the meeting by accessing the telephone number 1–669–254–5252, and the passcode is 47035054 (1,000 lines are available). The web conference access is *https://cdc.zoomgov.com/j/1617148601?pwd=eVBTM0dweHFxQUxWUzU2OEttY1R1QT09,* webinar ID: 161 714 8601 and passcode: v08w0@e5.

DATES: The meeting will be held on April 20, 2021, from 1:00 p.m. to 5:00 p.m., EDT and April 21, 2021, from 1:00 p.m. to 5:00 p.m., EDT.

ADDRESSES: The teleconference access is 1–669–254–5252, and the passcode is 47035054. The web conference access is *https://cdc.zoomgov.com/j/*

1617148601?pwd=eVBTM0dweHFx QUxWUzU2OEttY1R1QT09, webinar ID: 161 714 8601, and passcode: v08w0@e5.

FOR FURTHER INFORMATION CONTACT: Staci Morris, Committee Management Specialist, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, CDC, 1600 Clifton Road NE, Mailstop US8–6, Atlanta, Georgia 30329–4027, Telephone: (404) 718–7479; *smorris4@cdc.gov.*

SUPPLEMENTARY INFORMATION: Time will be available for public comment. The public is welcome to submit written comments in advance of the meeting. Comments should be submitted in writing by email to the contact person listed below by Monday, April 19, 2021. Persons who desire to make an oral statement, may request it at the time of the public comment period on April 20, 2021 at 4:25 p.m., EDT.

Purpose: This committee is charged with advising the Director, CDC, and the Administrator, HRSA, regarding activities related to prevention and control of HIV, Viral Hepatitis and other STDs, the support of health care services to persons living with HIV, and education of health professionals and the public about HIV, Viral Hepatitis and other STDs.

Matters To Be Considered: The agenda will include discussions on (1) STI Screening and Diagnostics; (2) Innovation and COVID–19; and (3) Youth and Mental Health. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–03962 Filed 2–25–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHACHSPT)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC and the Health Resources and Services Administration (HRSA) announce the following meeting for the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHACHSPT). This business meeting is open to the public, limited only by audio and web conference lines (1000 audio and web conference lines are available). The public is welcome to listen to the meeting by accessing the telephone number 1–669–254–5252, and the passcode is 55572151 (1000 lines are available). The web conference access is *https://cdc.zoomgov.com/j/1606419940?pwd=V2krVkVXbGtvVFdLbXV3N25PbTV4UT09,* webinar ID: 160 641 9940 and passcode: ZeTt@2VL.

DATES: The business meeting will be held on April 12, 2021, from 3:00 p.m. to 5:00 p.m., EDT.

ADDRESSES: The teleconference access is 1–669–254–5252, and the passcode is 55572151. The web conference access is *https://cdc.zoomgov.com/j/1606419940?pwd=V2krVkVXbGtvVFdLbXV3N25PbTV4UT09,* webinar ID: 160 641 9940 and passcode: ZeTt@2VL.

FOR FURTHER INFORMATION CONTACT: Staci Morris, Committee Management Specialist, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, CDC, 1600 Clifton Road NE, Mailstop US8–6, Atlanta, Georgia 30329–4027, Telephone (404) 718–7479; *smorris4@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This committee is charged with advising the Director, CDC and the Administrator, HRSA, regarding activities related to prevention and control of HIV, Viral Hepatitis and other STDs, the support of health care services to persons living with HIV/AIDS, and education of health professionals and the public about HIV, Viral Hepatitis and other STDs.

Matters To Be Considered: The agenda will include discussions on (1) HIV Testing Guidelines; and (2) FDA reclassification, home-based HIV self-tests and point-of-care testing for HCV. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–03961 Filed 2–25–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Clinical Laboratory Improvement Advisory Committee (CLIAC). This meeting is open to the public, limited only by the webcast lines available. Check the CLIAC website on the day of the meeting for the web conference link *www.cdc.gov/cliac.*

DATES: The meeting will be held on April 14, 2021, from 11:00 a.m. to 6:00 p.m., EDT and April 15, 2021, from 11:00 a.m. to 6:00 p.m., EDT.

ADDRESSES: This is a virtual meeting. Meeting times are tentative and subject to change. The confirmed meeting times, agenda items, and meeting materials including instructions for accessing the live meeting broadcast will be available on the CLIAC website at *www.cdc.gov/cliac.*

FOR FURTHER INFORMATION CONTACT: Nancy Anderson, MMSc, MT (ASCP), Senior Advisor for Clinical Laboratories, Division of Laboratory Systems, Center for Surveillance, Epidemiology and Laboratory Services, Office of Public Health Scientific Services, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop V24–3,

Atlanta, Georgia 30329–4027, telephone (404) 498–2741; *NAnderson@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This Committee is charged with providing scientific and technical advice and guidance to the Secretary, HHS; the Assistant Secretary for Health; the Director, CDC; the Commissioner, Food and Drug Administration (FDA); and the Administrator, Centers for Medicare and Medicaid Services (CMS). The advice and guidance pertain to general issues related to improvement in clinical laboratory quality and laboratory medicine practice and specific questions related to possible revision of the Clinical Laboratory Improvement Amendments of 1988 (CLIA) standards. Examples include providing guidance on studies designed to improve safety, effectiveness, efficiency, timeliness, equity, and patient-centeredness of laboratory services; revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards on medical and laboratory practice; and the modification of the standards and provision of non-regulatory guidelines to accommodate technological advances, such as new test methods, the electronic transmission of laboratory information, and mechanisms to improve the integration of public health and clinical laboratory practices.

Matters To Be Considered: The agenda will include agency updates from CDC, CMS, and FDA. In addition to the agency updates, presentations will include an update on CLIAC recommendations and an overview of the Laboratory Response Network. The focus of the meeting is a continuation of the fall 2020 theme, Clinical Laboratory Medicine in the Age of COVID–19 and will include presentations and discussions on clinical laboratory perspectives on laboratory-developed tests; application of CLIA regulations during the COVID–19 pandemic; and the expansion of point-of-care and at-home collection and testing. Agenda items are subject to change as priorities dictate.

It is the policy of CLIAC to accept written public comments and provide a brief period for oral public comments pertinent to agenda items. Public comment periods for each agenda item are scheduled immediately prior to the Committee discussion period for that item. In general, each individual or group requesting to present an oral comment will be limited to a total time of five minutes (unless otherwise indicated). Speakers should email *CLIAC@cdc.gov* or notify the contact person at least five business days prior to the meeting date. For individuals or groups unable to attend the meeting, CLIAC accepts written comments until the date of the meeting (unless otherwise stated). However, it is requested that comments be submitted at least five business days prior to the meeting date so that the comments may be made available to the Committee for their consideration and public distribution. All written comments will be included in the meeting Summary Report posted on the CLIAC website.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–04041 Filed 2–25–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC, announces the following meeting of the Advisory Board on Radiation and Worker Health (ABRWH or Advisory Board). This meeting is open to the public, limited only by the space available. There are 200 spaces for the audio conference and computer lines combined. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcome to listen to the meeting by joining a teleconference line and/or computer connection (information below).

DATES: The meeting will be held on April 14, 2021, from 1:00 p.m. to 6:15 p.m., EDT and April 15, 2021, from 1:00 p.m. to 6:15 p.m., EDT. A public comment session will be held on April 14, 2021 at 5:15 p.m. and will conclude at 6:15 p.m. or following the final call for public comment, whichever comes first. Written comments must be received on or before April 7, 2021.

ADDRESSES: You may submit comments by mail to: Sherri Diana, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226.

Meeting Information: The USA toll-free dial-in numbers are: +1 669 254 5252 US (San Jose); +1 646 828 7666 US (New York); +1 551 285 1373 US; +1 669 216 1590 US (San Jose); The Meeting ID is: 160 961 6536 and the Passcode is: 48605170; Web conference by Zoom meeting connection: *https://cdc.zoomgov.com/j/1609616536?pwd=eUZGYkhONGJnMzVwWmcvSkNaNmowZz09.*

FOR FURTHER INFORMATION CONTACT: Rashaun Roberts, Ph.D., Designated Federal Officer, NIOSH, CDC, 1090 Tusculum Avenue, Mailstop C–24, Cincinnati, Ohio 45226, Telephone (513) 533–6800, Toll Free 1(800)CDC–INFO, Email *ocas@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC.

The Advisory Board's charter was issued on August 3, 2001, renewed at appropriate intervals, rechartered on March 22, 2020, and will terminate on March 22, 2022.

Purpose: This Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Considered: The agenda will include discussions on the following: NIOSH Program Update; Department of Labor Program Update; Department of Energy Program Update; SEC Petitions Update; Updates on dose reconstruction reviews, dose reconstruction procedure reviews, Savannah River Site SEC Petition #103 (Aiken, South Carolina; October 1972–2007), Metals and Controls Corp. SEC Petition #236 (Attleboro, Massachusetts; 1968–1997), and a Board Work Session. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–03960 Filed 2–25–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10398]

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 29, 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:* Generic Clearance for Medicaid and CHIP State Plan, Waiver, and Program Submissions; *Use:* State Medicaid and CHIP agencies are responsible for developing submissions to CMS, including state plan amendments and requests for waivers and program demonstrations. States use templates when they are available and submit the forms to review for consistency with statutory and regulatory requirements (or in the case of waivers and demonstrations whether the proposal is likely to promote the objectives of the Medicaid program). If the requirements are met, we approve the states' submissions giving them the authority to implement the flexibilities. For a state to receive Medicaid Title XIX funding, there must be an approved Title XIX state plan.

The development of streamlined submissions forms enhances the collaboration and partnership between states and CMS by documenting our policy for states to use as they are developing program changes. Streamlined forms improve efficiency of administration by creating a common and user-friendly understanding of the information we need to quickly process requests for state plan amendments, waivers, and demonstration, as well as ongoing reporting. *Form Number:* CMS–10398 (OMB control number: 0938–1148); *Frequency:* Collection-specific, but generally the frequency is yearly, once, and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Responses:* 1,540; *Total Hours:* 154,104 (3-year total). (For policy questions regarding this collection contact Annette Pearson at 410–786–6858.)

Dated: February 23, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–04052 Filed 2–25–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10450]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) requests an information collection request to support the implementation of the CAHPS for MIPS survey to add an item on telehealth to address the Public Health Emergency (PHE) be processed under the emergency clearance process associated with Paperwork Reduction Act of 1995 (PRA). In order to address our stakeholders and the increased use of telehealth services due to the PHE for COVID–19, a question is being added to the CAHPS for MIPS survey. The question is being added to integrate one telehealth item to assess the patient-reported usage of telehealth services (for example, phone or video visit). The additional question collects self-reported information from CAHPS for MIPS Survey respondents on the modalities of care (in-person, telephone or video visit) received during the last 6 months. This survey item would be utilized for informational purposes only and would not be used for quality scoring or payment purposes. We are requesting Emergency Approval in order to make this telehealth item part of the survey starting in CY 2021, which is in alignment with what our stakeholders have requested. In order to do this, there are tasks that need to be completed by late spring such as vendor training, preparing letters and Computer Assisted Telephone Interviewing (CATI) scripts.

DATES: Comments must be received by April 9, 2021.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted within 42 days in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *Electronically.* Comments and recommendations for the proposed information collection can also be sent within 42 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting 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 *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed ICR. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this ICR including the necessity and utility of the proposed ICR 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.

Contents

This notice sets out a summary of the use and burden associated with the following ICR. More detailed information can be found in the collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10450 Consumer Assessment of Healthcare Providers and Systems (CAHPS) Survey for the Merit-Based Incentive Payment Systems (MIPS)

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. 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. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved Information Collection; *Title of Information Collection:* Consumer Assessment of Healthcare Providers and Systems (CAHPS) Survey for Merit-based Incentive Payment Systems (MIPS); *Use:* CMS is submitting updates to one information collection request associated with the CAHPS for MIPS survey. The CAHPS for MIPS survey is used in the Quality Payment Program (QPP) to collect data on fee-for-service Medicare beneficiaries' experiences of care with eligible clinicians participating in MIPS and is designed to gather only the necessary data that CMS needs for assessing physician quality performance, and related public reporting on physician performance, and should complement other data collection efforts. The survey consists of the core Agency for Healthcare Research and Quality (AHRQ) CAHPS Clinician & Group Survey, version 3.0, plus additional survey questions to meet CMS's information and program needs. The survey information is used for quality reporting, the Care Compare website, and annual statistical experience reports describing MIPS data for all MIPS eligible clinicians.

This 2021 information collection request addresses changes to the CAHPS for MIPS Survey associated with the CY 2021 Physician Fee Schedule (PFS) final rule. In order to address the increased use of telehealth care due to the Public Health Emergency (PHE) for COVID–19, an additional question is added to the CAHPS for MIPS survey to integrate one telehealth item to assess the patient-reported usage of telehealth services. In addition, the cover page of the CAHPS for MIPS Survey is revised to include a reference to care in telehealth settings. The CAHPS for MIPS survey results in burden to three different types of entities: Groups and virtual groups, vendors, and beneficiaries associated with administering the survey. Virtual groups are subject to the same requirements as groups; therefore, we will refer only to groups as an inclusive term for both unless otherwise noted. The estimated time to administer the 2021 CAHPS for MIPS survey has increased from 12.9 minutes to 13.1 minutes; however, there was an overall decrease in burden as the number of respondents decreased. *Form Number:* CMS–10450 (OMB control number: 0938–1222); *Frequency:* Yearly; *Affected Public:* Business or other for-profits and Not-for-profit institutions and Individuals and Households; *Number of Respondents:* 30,249; *Total Annual*

Responses: 30,249; *Total Annual Hours:* 6,902. (For policy questions regarding this collection contact Alesia Hovatter at 410–786–6861.)

Dated: February 23, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–04056 Filed 2–25–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Charter Renewal for the Advisory Council on Blood Stem Cell Transplantation

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, HHS is hereby giving notice that the Advisory Council on Blood Stem Cell Transplantation (ACBSCT or Council) has been rechartered. The effective date of the recharter is February 19, 2021.

FOR FURTHER INFORMATION CONTACT: Robert Walsh, Executive Secretary, Advisory Council on Blood Stem Cell Transplantation, HRSA, 5600 Fishers Lane, Room 08W60, Rockville, Maryland 20857. Phone: (301) 443–6839; email: *ACBSCTHRSA@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACBSCT provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other matters of significance concerning the activities under the authority of 42 U.S.C. 274k; Section 379 of the Public Health Service Act. The Council is governed by the provisions of Public Law 92–463, as amended (5 U.S.C. appendix 2), which sets forth standards for the formation and use of advisory committees.

ACBSCT advises and makes recommendations to the Secretary on matters related to the activities of the C.W. Bill Young Cell Transplantation Program and the National Cord Blood Inventory Program. One of its principal functions is to provide a consolidated, comprehensive source of expert, unbiased analysis and recommendations to the Secretary on the latest advances in the science of blood stem cell transplantation.

The recharter for ACBSCT was approved on February 18, 2021, and filed on February 19, 2021. Recharter of ACBSCT gives authorization for the Council to operate until February 19, 2023.

A copy of the ACBSCT charter is available on the ACBSCT website at *https://bloodcell.transplant.hrsa.gov/about/advisory_council/index.html.* A copy of the charter can also be obtained by accessing the FACA database that is maintained by the Committee Management Secretariat under the General Services Administration. The website address for the FACA database is *http://www.facadatabase.gov/.*

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–03990 Filed 2–25–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel: Ancillary Studies Review Meeting.

Date: March 24, 2021.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nakia C. Brown, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, 6701 Democracy Boulevard, Room 816, Bethesda, MD 20892, (301) 827–4905, *brownnac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: February 22, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03939 Filed 2–25–21; 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

Member Conflict: Pathobiology of Alzheimer's Disease.

Date: March 19, 2021.

Time: 12:00 p.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: Aleksey Gregory Kazantsev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, MSC 7846, Bethesda, MD 20817, (301) 435–1042, *aleksey.kazantsev@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Societal and Ethical Issues in Research.

Date: March 24, 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: Benjamin Greenberg Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–TR–20–001: Ethical issues in Translational Science Research.

Date: March 24, 2021.

Time: 12:00 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: Benjamin G. Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Medical Imaging Investigations.

Date: March 26, 2021.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, (301) 237–9870, *xuguofen@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Risks, Prevention and Health Behavior.

Date: March 26, 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: Martha M. Faraday, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 435–3575, *faradaym@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Cellular and Circuit Neuroscience.

Date: March 26, 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: Jyothi Arikkath, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5215, Bethesda, MD 20892, (301) 435–1042, *arikkathj2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Sleep, Taste, Smell, Movement and Stress.

Date: March 26, 2021.

Time: 11:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Janita N. Turchi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–4005, *turchij@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–19–222: Small Grants for New Investigators to Promote Diversity in Health-Related Research (R21 Clinical Trial Optional).

Date: March 26, 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: Jianxin Hu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2156, MSC 7818, Bethesda, MD 20892, (301) 827–4417, *jianxinh@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 22, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03945 Filed 2–25–21; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Autoimmune Diseases Statistical and Clinical Coordinating Center (AD–SCCC).

Date: March 23, 2021.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F52, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Margaret A. Morris Fears, 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 3F52, Rockville, MD 20852, 301.761.5444, *maggie.morrisfears@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 22, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03946 Filed 2–25–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Urology RC2 Applications.

Date: April 5, 2021.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Room 7015, Bethesda, MD 20892–2542, (301) 594–4721, *ryan.morris@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition

Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 22, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03942 Filed 2–25–21; 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; R13 Support for Conferences and Scientific Meetings.

Date: March 19, 2021.

Time: 12:30 p.m. to 5:30 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: Mir Ahamed Hossain, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Rockville, MD 20852, (301) 496–9223, *mirahamed.hossain@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN Circuit Programs BCP U19.

Date: March 29–31, 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: Delany Torres, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS, Neuroscience Center Building (NSC), 6001 Executive Blvd., Suite 3208, Rockville, MD 20852, *delany.torressalazar@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN Circuit Programs BCP U19.

Date: April 1–2, 2021.

Time: 10:00 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: Tatiana Pasternak, 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) 496–9223, *tatiana.pasternak@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 22, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03941 Filed 2–25–21; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID/DAIT Regulatory Management Center (RMC).

Date: March 19, 2021.

Time: 11:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G41, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Kelly L. Hudspeth, 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 3G41, Rockville, MD 20852, 240–669–5067, *kelly.hudspeth@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 22, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03940 Filed 2–25–21; 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; NOSI: Vaccine Hesitancy, Uptake, Implementation and Health Disparities.

Date: March 24, 2021.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gabriel B. Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; HIV Comorbidities and Clinical Studies Study Section.

Date: March 25–26, 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: David C. Chang, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive Bethesda, MD 20892, (301) 451–0290, *changdac@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Infectious Diseases and Immunology.

Date: March 25–26, 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: Katherine M. Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0912, *Katherine.Malinda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: March 25, 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: Richard G. Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 240–519–7808, *kostrikr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–358: Molecular and Cellular Causal Aspects of Alzheimer's Disease.

Date: March 25, 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: Adem Can, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, (301) 435–1042, *cana2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Cancer Immunology and Immunotherapy.

Date: March 25–26, 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: Ola Mae Zack Howard, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892, 301–451–4467, *howardz@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Reproduction, Endocrinology and Metabolism.

Date: March 25, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Liliana N Berti-Mattera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 6158, MSC 7890, Bethesda, MD 20892, (301) 827–7609, *liliana.berti-mattera@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–20–243: Digital Healthcare Interventions to Address the Secondary Health Effects Related to COVID–19.

Date: March 25, 2021.

Time: 10:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Karen Nieves Lugo, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, 301–594–9088, *karen.nieveslugo@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 22, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03937 Filed 2–25–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory General Medical Sciences Council, May 12, 2021, 08:30 a.m. to May 13, 2021, 05:00 p.m., National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on December 31, 2020, 85 FR 86942.

The meeting notice is amended to change the date of the meeting from May 12–13, 2021 to May 20, 2021. The meeting is partially Closed to the public.

Dated: February 22, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03938 Filed 2–25–21; 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 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: Center for Scientific Review Special Emphasis Panel; Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions.

Date: March 2, 2021.

Time: 12:30 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: Karen Nieves Lugo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 3148, MSC 7770, Bethesda, MD 20892, (301) 594–9088, *karen.nieveslugo@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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 22, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–03947 Filed 2–25–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0671]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0031

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0031, Plan Approval and Records for Electrical Engineering Regulations; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before March 29, 2021.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2020–0671]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2020–0671], and must be received by March 29, 2021.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0031.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (85 FR 81939, December 17, 2020) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J.

OMB Control Number: 1625–0031.

Summary: The information is needed to ensure compliance with our rules on electrical engineering for the design and construction of U.S.-flag commercial vessels.

Need: Title 46 U.S.C. 3306 and 3703 authorize the Coast Guard to establish rules to promote the safety of life and property in commercial vessels. The electrical engineering rules appear at 46 CFR subchapter J (parts 110 through 113).

Forms: None.

Respondents: Owners, operators, shipyards, designers, and manufacturers of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 6,524 hours to 6,536 hours a year due to an estimated increase in the annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: February 19, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–03977 Filed 2–25–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0752]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0092

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0092, Sewage and Graywater Discharge Records for Certain Cruise Vessels Operating on Alaskan Waters; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before March 29, 2021.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2020–0752. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2020–0752], and must be received by March 29, 2021.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0092.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (85 FR 81938, December 17, 2020) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Sewage and Graywater Discharge Records for Certain Cruise Vessels Operating on Alaskan Waters.

OMB Control Number: 1625–0092.

Summary: To comply with the Title XIV of Public Law 106–554, this information collection is needed to enforce sewage and graywater discharges requirements from certain cruise ships operating on Alaskan waters.

Need: Title 33 CFR part 159 subpart E prescribe regulations governing the discharge of sewage and graywater from cruise vessels, requires sampling and testing of sewage and graywater discharges, and establishes reporting and recordkeeping requirements.

Forms: Not appliciable.

Respondents: Owners, operators and masters of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 404 hours to 358 hours a year, due to a calculation error made during the last periodic renewal.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: February 19, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–03975 Filed 2–25–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0672]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0082

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0082, Navigation Safety Information and Emergency Instructions for Certain Towing Vessels; without change.

Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before March 29, 2021.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2020–0672. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2020–0672], and must be received by March 29, 2021.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0082.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (85 FR 81936, December 17, 2020) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Navigation Safety Information and Emergency Instructions for Certain Towing Vessels.

OMB Control Number: 1625–0082.

Summary: Navigation safety regulations in 33 CFR part 164 help assure that the mariner piloting a towing vessel has adequate equipment, charts, maps, and other publications. For certain inspected towing vessels, under 46 CFR 199.80 a muster list and emergency instructions provide effective plans and references for crew to follow in an emergency situation.

Need: The purpose of the regulations is to improve the safety of towing vessels and the crews that operate them.

Forms: None.

Respondents: Owners, operators and masters of vessels.

Frequency: On occasion.

Hour Burden Estimate: Owners, operators and masters of vessels.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: February 19, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–03976 Filed 2–25–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2020–0670]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number 1625–0127

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0127, Marine Transportation System Recovery; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before March 29, 2021.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2020–0670. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2020–0670], and must be received by March 29, 2021.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0127.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (85 FR 82495, December 18, 2020) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Marine Transportation System Recovery.

OMB Control Number: 1625–0127.

Summary: This information collection captures data on facilities, vessels and shared transportation infrastructure prior to a port disruption to be able to characterize the port in its normal fully functioning condition.

Need: 46 U.S.C. 70011, 70051 and 70103 require the U.S. Coast Guard to take action to prevent damage to, or the destruction of, bridges, other structures, on or in navigable waters or shore area adjacent; to minimize damage from and respond to a transportation security incident; and to safeguard against destruction of vessels, harbors, ports and waterfront facilities in the United States and all territorial waters during a national emergency. This information is needed to establish a Marine Transportation System (MTS) Essential Elements of Information baseline. Following a port disruption, Facility Status information is needed to determine the best course of action for port recovery. Respondents are vessel and facility operators.

Forms:

- CG–11410, Marine Transportation System Recovery Essential Elements of Information.
- CG–11410A, Marine Transportation System Recovery Facility Status.

Respondents: Owners or operators of U.S. waterfront facilities.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 225 hours to 338 hours a year, due to an increase in the annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: February 19, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–03978 Filed 2–25–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive, officer of community	Community map, repository	Date of modification	Community No.
Colorado:					
Eagle (FEMA Docket No.: B–2067).	Town of Basalt (20–08–0275P).	Mr. Ryan Mahoney, Manager, Town of Basalt, 101 Midland Avenue, Basalt, CO 81621.	Town Hall, 101 Midland Avenue, Basalt, CO 81621.	Jan. 26, 2021	080052
Eagle (FEMA Docket No.: B–2067).	Unincorporated areas of Eagle County (20–08–0275P).	Mr. Jeff Schroll, Eagle County Manager, P.O. Box 850, Eagle, CO 81631.	Eagle County Engineering Department, 500 Broadway Street, Eagle, CO 81631.	Jan. 26, 2021	080051
Connecticut: Fairfield (FEMA Docket No.: B–2067).	Town of Darien (20–01–0611P).	The Honorable Jayme J. Stevenson, First Selectman, Town of Darien Board of Selectmen, 2 Renshaw Road, Room 202, Darien, CT 06820.	Planning and Zoning Department, 2 Renshaw Road, Darien, CT 06820.	Jan. 22, 2021	090005
Florida:					
Bay (FEMA Docket No.: B–2067).	City of Panama City Beach (20–04–1474P).	The Honorable Mark Sheldon, Mayor, City of Panama City Beach, 116 South Arnold Road, Panama City Beach, FL 32413.	Building Division, 116 South Arnold Road, Panama City Beach, FL 32413.	Jan. 28, 2021	120013
Collier (FEMA Docket No.: B–2067).	City of Marco Island (20–04–4781P).	Mr. Mike McNees, Manager, City of Marco Island, 50 Bald Eagle Drive, Marco Island, FL 34145.	Building Services Department, 50 Bald Eagle Drive, Marco Island, FL 34145.	Jan. 22, 2021	120426
Collier (FEMA Docket No.: B–2064).	City of Naples (20–04–3512P).	The Honorable Teresa Heitmann, Mayor, City of Naples, 735 8th Street South, 2nd Floor, Naples, FL 34102.	Building Department, 295 Riverside Circle, Naples, FL 34102.	Jan. 19, 2021	125130

State and county	Location and case No.	Chief executive, officer of community	Community map, repository	Date of modification	Community No.
Lee (FEMA Docket No.: B–2067).	Town of Fort Myers Beach (20–04–3679P).	The Honorable Ray Murphy, Mayor, Town of Fort Myers Beach, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Community Development Department, 2525 Estero Boulevard, Fort Myers Beach, FL 33931.	Jan. 19, 2021	120673
Monroe (FEMA Docket No.: B–2067).	Unincorporated areas of Monroe County (20–04–4173P).	The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	Jan. 19, 2021	125129
Palm Beach (FEMA Docket No.: B–2067).	Unincorporated areas of Palm Beach County (19–04–6690P).	The Honorable Dave Kerner, Mayor, Palm Beach County, 301 North Olive Avenue, Suite 1201, West Palm Beach, FL 33401.	Palm Beach County Department of Planning, Zoning and Building Department, 2300 North Jog Road, West Palm Beach, FL 33401.	Jan. 29, 2021	120192
Maine: Knox (FEMA Docket No.: B–2073).	Town of Vinalhaven (20–01–0545P).	Mr. Andrew J. Dorr, Manger, Town of Vinalhaven, 19 Washington School Road, Vinalhaven, ME 04863.	Planning and Community Development Department, 19 Washington School Road, Vinalhaven, ME 04863.	Jan. 29, 2021	230230
Montana: Lewis and Clack (FEMA Docket No.: B–2067).	City of Helena (20–08–0095P).	The Honorable Wilmot Collins, Mayor, City of Helena, 316 North Park Avenue, Room 323, Helena, MT 59623.	City Hall, 316 North Park Avenue, Helena, MT 59623.	Jan. 28, 2021	300040
New Hampshire:					
Rockingham (FEMA Docket No.: B–2067).	Town of Salem (20–01–0650P).	Mr. Christopher A. Dillon, Manager, Town of Salem, 33 Geremonty Drive, Salem, NH 03079.	Town Hall, 33 Geremonty Drive, Salem, NH 03079.	Jan. 19, 2021	330142
Strafford (FEMA Docket No.: B–2067).	City of Dover (20–01–0517P).	The Honorable Robert Carrier, Mayor, City of Dover, 288 Central Avenue, Dover, NH 03820.	Planning Department, 288 Central Avenue, Dover, NH 03820.	Jan. 26, 2021	330145
Oklahoma:					
Payne (FEMA Docket No.: B–2067).	City of Stillwater (20–06–0276P).	The Honorable Will Joyce, Mayor, City of Stillwater, 723 South Lewis Street, Stillwater, OK 74047.	Development Services Department, 723 South Lewis Street, Stillwater, OK 74047.	Jan.22, 2021	405380
Payne (FEMA Docket No.: B–2067).	Unincorporated areas of Payne County (20–06–0276P).	The Honorable Kent Bradley, Chairman, Payne County Board of Commissioners, 506 Expo Circle South, Stillwater, OK 74074.	Payne County Administrative Building, 315 West 6th Street, Suite 203, Stillwater, OK 74074.	Jan. 22, 2021	400493
South Carolina: Lexington (FEMA Docket No.: B–2064).	Unincorporated areas of Lexington County (20–04–1249P).	The Honorable Scott Whetstone, Chairman, Lexington County Council, 212 South Lake Drive, Suite 601, Lexington, SC 29072.	Lexington County Community Development Department, 212 South Lake Drive, Suite 601, Lexington, SC 29072.	Jan. 22, 2021	450129
Tennessee:					
Shelby (FEMA Docket No.: B–2067).	City of Memphis (20–04–1185P).	The Honorable Jim Strickland, Mayor, City of Memphis, 125 North Main Street, Room 700, Memphis, TN 38103.	Engineering Division, 125 North Main Street, Room 677, Memphis, TN 38103.	Jan. 27, 2021	470177
Shelby (FEMA Docket No.: B–2067).	Unincorporated areas of Shelby County (20–04–1185P).	The Honorable Lee Harris, Mayor, Shelby County, 160 North Main Street, Memphis, TN 38103.	Shelby County Department of Engineering, 6463 Haley Road, Memphis, TN 38134.	Jan. 27, 2021	470214
Texas:					
Bexar (FEMA Docket No.: B–2073).	City of San Antonio (19–06–1446P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Stormwater Division, 114 West Commerce, 7th Floor, San Antonio, TX 78205.	Feb. 1, 2021	480045
Bexar (FEMA Docket No.: B–2073).	City of San Antonio (19–06–3670P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Stormwater Division, 114 West Commerce, 7th Floor, San Antonio, TX 78205.	Jan. 25, 2021	480045
Dallas (FEMA Docket No.: B–2073).	City of Dallas (20–06–0418P).	The Honorable Eric Johnson, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201.	Floodplain Management Department, 320 East Jefferson Boulevard, Suite 307, Dallas, TX 75203.	Feb. 1, 2021	480171
Dallas (FEMA Docket No.: B–2073).	City of Dallas (20–06–1125P).	The Honorable Eric Johnson, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201.	Floodplain Management Department, 320 East Jefferson Boulevard, Suite 307, Dallas, TX 75203.	Feb. 1, 2021	480171
Dallas (FEMA Docket No.: B–2073).	City of Farmers Branch (20–06–1125P).	The Honorable Robert C. Dye, Mayor, City of Farmers Branch, 13000 William Dodson Parkway, Farmers Branch, TX 75234.	City Hall, 13000 William Dodson Parkway, Farmers Branch, TX 75234.	Feb. 1, 2021	480174
Denton (FEMA Docket No.: B–2067).	City of Sanger (20–06–1045P).	The Honorable Thomas Muir, Mayor, City of Sanger, P.O. Box 1729, Sanger, TX 76266.	City Hall, 201 Bolivar Street, Sanger, TX 76266.	Jan. 25, 2021	480786
Denton (FEMA Docket No.: B–2067).	Unincorporated areas of Denton County (20–06–1045P).	The Honorable Andy Eads, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	Denton County Public Works, Engineering Department, 1505 East McKinney Street, Suite 175, Denton, TX 76209.	Jan. 25, 2021	480774

State and county	Location and case No.	Chief executive, officer of community	Community map, repository	Date of modification	Community No.
Harris (FEMA Docket No.: B–2076).	Unincorporated areas of Harris County (20–06–2019P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77092.	Feb. 1, 2021	480287
Tarrant (FEMA Docket No.: B–2073).	City of Crowley (20–06–1367P).	The Honorable Billy P. Davis, Mayor, City of Crowley, 201 East Main Street, Crowley, TX 76036.	City Hall, 201 East Main Street, Crowley, TX 76036.	Feb. 1, 2021	480591
Tarrant (FEMA Docket No.: B–2064).	City of Fort Worth (20–06–1803P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	Jan. 25, 2021	480596
Utah: Davis (FEMA Docket No.: B–2064).	City of Clearfield (20-08-0266P).	Mr. J.J. Allen, Manager, City of Clearfield, 55 South State Street, Clearfield, UT 84015.	City Hall, 55 South State Street, Clearfield, UT 84015.	Jan. 19, 2021	490041

[FR Doc. 2021–03762 Filed 2–25–21; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0123]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Provisional Unlawful Presence Waiver of Inadmissibility

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting 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. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until March 29, 2021.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2012–0003. All submissions received must include the OMB Control Number 1615–0123 in the body of the letter, the agency name and Docket ID USCIS–2012–0003.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on December 23, 2020, at 85 FR 83987, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2012–0003 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Provisional Unlawful Presence Waiver of Inadmissibility.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–601A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Section 212(a)(9)(B)(i)(I) and (II) of the Immigration and Nationality Act (INA or the Act) provides for the inadmissibility of certain individuals who have accrued unlawful presence in the United States. There is also a waiver provision incorporated into section 212(a)(9)(B)(v) of the Act, which allows the Secretary of Homeland Security to exercise

discretion to waive the unlawful presence grounds of inadmissibility on a case by case basis. The information collected from an applicant on an Application for Provisional Unlawful Presence Waiver of Inadmissibility, Form I–601A, is necessary for U.S. Citizenship and Immigration Services (USCIS) to determine not only whether the applicant meets the requirements to participate in the streamlined waiver process provided by regulation, but also whether the applicant is eligible to receive the provisional unlawful presence waiver.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–601A is 63,000 and the estimated hour burden per response is 1.5 hours. The estimated total number of respondents for the collection of biometrics is 63,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 168,210 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $3,212,390.

Dated: February 23, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–04002 Filed 2–25–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLHQ260000 L10600000.PC0000; OMB Control Number 1004–0042]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Protection, Management, and Control of Wild Horses and Burros

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before March 29, 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 Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Holle' Waddell by email at *hwaddell@blm.gov,* or by telephone at 405–579–1860. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on October 30, 2020 (85 FR 68914). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: In accordance with the Wild Free-Roaming Horses and Burros Act (16 U.S.C. 1331–1340) and the regulations at 43 CFR part 4700, the BLM collects specific information from individuals in order to determine (1) if applicants are qualified to adopt or purchase wild horses and burros, (2) whether or not to authorize an adopter or purchaser to maintain more than four wild horses and burros, (3) whether or not to grant requests for replacement animals or refunds, and (4) whether or not to terminate a private maintenance and care agreement. This request is for OMB to renewal OMB control number 1004–0042 for an additional three (3) years.

Title of Collection: Protection, Management, and Control of Wild Horses and Burros (43 CFR part 4700).

OMB Control Number: 1004–0042.

Form Numbers: 4710–10 and 4710–24.

Type of Review: Renewal and revision of a currently approved collection.

Respondents/Affected Public: Those who wish to adopt, purchase, foster, or train a wild horse or burro.

Total Estimated Number of Annual Respondents: 7,943.

Total Estimated Number of Annual Responses: 7,943.

Estimated Completion Time per Response: Between 10 minutes to 30 minutes.

Total Estimated Number of Annual Burden Hours: 3,970.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $2,400.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Chandra Little,

Regulatory Analyst, Bureau of Land Management.

[FR Doc. 2021–04001 Filed 2–25–21; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1070A (Third Review)]

Certain Crepe Paper Products From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on certain crepe paper products from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on August 3, 2020 (85 FR 46715) and determined on November 6, 2020 that it would conduct an expedited review (86 FR 7411, January 28, 2021).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on February 22, 2021. The views of the Commission are contained in USITC Publication 5163 (February 2021), entitled *Certain Crepe Paper Products from China: Investigation No. 731–TA–1070A (Third Review).*

By order of the Commission.

Issued: February 23, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–04020 Filed 2–25–21; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

On February 22, 2021, the Department of Justice lodged a proposed consent order with the United States Bankruptcy Court for the District of New Jersey in the Chapter 11 matter entitled *In re: Tri Harbor Holdings Corporation (f/k/a Aceto Corporation), et al.,* Case No. 19–13448 (VFP).

The consent order relates to liabilities asserted by the United States and the New Jersey Department of Environmental Protection (''NJDEP'') against Arsynco, Inc. (''Arsynco''), under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 *et seq.* (''CERCLA''), for (1) cost recovery on behalf of the United States Environmental Protection Agency (''EPA''), and (2) natural resource damages on behalf of the federal and state natural resource trustees, concerning the Berry's Creek Study Area (''BCSA'') operable unit of the Ventron/Velsicol Superfund Site, located in Bergen County, New Jersey and a 12.3-acre parcel of property located at 511 13th Street in Carlstadt, New Jersey formerly owned by Arsynco.

Under the consent order, the United States shall have an allowed general unsecured claim in the amount of $9,566,000 for EPA's asserted past and future response costs. In addition, the United States, on behalf of the Department of Interior and the National Oceanic Atmospheric Administration, and the State of New Jersey, collectively the ''Trustees'', shall have an allowed general unsecured claim in the amount of $8,215,000 for asserted natural resource damages.

The publication of this notice opens a period for public comment on the proposed consent order. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Environmental Enforcement Section, and should refer to *In re: Tri Harbor Holdings Corporation (f/k/a Aceto Corporation), et al.,* Case No. 19–13448 (VFP). All comments must be submitted no later than sixty (60) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent order may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent order upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–04047 Filed 2–25–21; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0052]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection Claims Under the Radiation Exposure Compensation Act

AGENCY: Civil Division, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Civil Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until April 27, 2021.

FOR FURTHER INFORMATION CONTACT: Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to *oira_submission@omb.eop.gov* or fax them to 202–395–5806. All comments should reference the 8 digit OMB number for the collection or the title of the

collection. If you have questions concerning the collection, please contact the Radiation Exposure Compensation Program, Attn: Jason C. Bougere, U.S. Department of Justice, P.O. Box 146, Ben Franklin Station, Washington, DC 20044–0146.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.
2. *The Title of the Form/Collection:* Claims Under the Radiation Exposure Compensation Act.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: N/A. DOJ Component: Civil Division.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Abstract: Information is collected to determine whether an individual is entitled to compensation under the Radiation Exposure Compensation Act.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that there will be 2,000 respondents annually, and each respondent will require 2.5 hours to complete the information collection.
6. *An estimate of the total public burden (in hours) associated with the collection:* An estimate of the total public burden (in hours) associated with the collection: There are an estimated 5,000 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Room 3E.405B, Washington, DC 20530.

Dated: February 23, 2021.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2021–04004 Filed 2–25–21; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF JUSTICE

Notice of Filing of Proposed Settlement Agreement Regarding Environmental Claims In Connection With the Madison County Mines Superfund Site

On February 19, 2021, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Missouri in the lawsuit entitled *United States and the State of Missouri* v. *Delta Asphalt, Inc.,* Civil Action No. 21–cv–00029.

The proposed Consent Decree would resolve claims the United States and State of Missouri have brought pursuant to Sections 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(a), and Missouri Hazardous Waste Management Law, Mo. Rev. Stat. §§ 260.350–260.430, and § 260.510 against Delta Asphalt, Inc. (''Delta'') related to Operable Unit 5 (''OU5'') of the Madison County Mines Superfund Site in Madison County, Missouri.

Under the Settlement Agreement, Delta will place proprietary controls on its property to provide the Environmental Protection Agency and the State access in order to perform remedial actions, as well as place limits on any use of the property that could interfere with the remedy. In exchange, the United States and the State provide covenants not to sue or to take administrative action against Delta pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), Section 7003 of RCRA, 42 U.S.C. 6973, and Mo. Rev. Stat. §§ 260.350–260.430 and §§ 260.500–550, with regard to the Site.

The publication of this notice opens a period for public comment on the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Missouri* v. *Delta Asphalt, Inc.,* D.J. Ref. No. 90–11–3–11942. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Under Section 7003(d) of RCRA, 42 U.S.C. 6973, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* Alternatively, a paper copy of the Settlement Agreement will be provided upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–03986 Filed 2–25–21; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0041]

FM Approvals LLC: 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 FM Approvals LLC 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 one test standard 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 15, 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–2007–0041). 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 15, 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 FM Approvals LLC (FM) is applying for an expansion of current recognition as a NRTL. FM requests the addition of five 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 FM, 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.*

FM currently has two facilities (sites) recognized by OSHA for product testing and certification, with the headquarters located at: FM Approvals LLC, 1151 Boston-Providence Turnpike, Norwood, Massachusetts 02062. A complete list of FM's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/fm.html.*

II. General Background on the Application

FM submitted an application to OSHA to expand recognition as a NRTL to include five additional test standards on May 16, 2019 (OSHA–2007–0041–0014). 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 FM'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 FM'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
* ANSI FM 3265.	Spark Detection and Extinguishing Systems.
UL 268	Smoke Detectors for Fire Alarm Systems.
UL 1971	Signaling Devices for the Hearing Impaired.
UL 2127	Inert Gas Clean Agent Extinguishing System Units.
UL 2166	Halocarbon Clean Agent Extinguishing System Units.

* Represents the standard that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.

III. Proposal To Add New Test Standard 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 one new test standard to the NRTL Program's list of appropriate test standards. Table 2, below, lists the test standard that is new to the NRTL Program. OSHA preliminarily determined that this test standard is appropriate and proposes to include it in the NRTL Program's list of appropriate test standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—STANDARD OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
ANSI FM 3265	Spark Detection and Extinguishing Systems.

IV. Preliminary Findings on the Application

FM submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application files, and pertinent documentation, indicate that FM can meet the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of these five test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of FM's application.

OSHA welcomes public comment as to whether FM 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 five 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–2007–0041.

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 FM'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 17, 2021.

Amanda L. Edens,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–03943 Filed 2–25–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2017–0014]

Standard on Confined Spaces in Construction; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Confined Spaces in Construction Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by April 27, 2021.

ADDRESSES:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

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 the 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 for this **Federal Register** notice (OSHA–2017–0014). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

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:

I. Background

The Department of Labor, as part of a continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance process to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the

desired format, the reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act, or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with a minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining said information (29 U.S.C. 657).

The Standard specifies several information collection requirements. The following sections describe who uses the information collected under each requirement, as well as how they use it. Employers and employees would use these information collection requirements when they identify a confined space at a construction worksite. The purpose of the information would permit employers and employees to systematically evaluate the dangers in confined spaces before entry is attempted, and to ensure that adequate measures have been implemented to make the spaces safe for entry. In addition, the information collection requirements of the Standard specify requirements for developing and maintaining a number of records and other documents. Further, OSHA compliance safety and health officers would need the information to determine, during an inspection, whether employers are complying with the requirements.

29 CFR 1926.1203—General Requirements

29 CFR 1926.1203(b)(1)—Informing Employees of Permit Required Confined Spaces Dangers

Paragraph (b)(1) requires employers who identify a permit required confined space (PRCS) to post danger signs or take other equally effective means to inform employees of the existence and location of, and the danger posed by, permit spaces. The note following paragraph (b)(1) provides an example of the content of the optional danger sign.

29 CFR 1926.1203(b)(2)—Informing Controlling Contractors and Employees' Authorized Representatives About PRCS Hazards

Paragraph (b)(2) requires employers to inform, in a timely manner and in a manner other than posting, the employees' authorized representatives and the controlling contractor, of the hazards of confined spaces and the location of those spaces.

29 CFR 1926.1203(d)—Written Permit Space Program

Paragraph (d) requires any employer that has employees who will enter a confined space to have and implement a written permit confined space program and to make the program available for inspection by employees and their representatives. Employers may write detailed permit space programs, while making the entry permits associated with the written programs less specific than the programs, provided the permits address the hazards of the particular space; conversely, the program may be less specific than the entry permit, in which case the employer must draft a detailed permit.

29 CFR 1926.1203(e)(1)(v) and 1926.1203(e)(2)(ix)—Alternate Procedure Documentation and Availability

Paragraph (e)(1) sets forth the six conditions that an employer must meet before the employees can enter a permit space under the alternate procedures specified in paragraph (e)(2).

Paragraph (e)(1)(v) requires employers to document the initial conditions before entry, including the determinations and supporting data required by paragraphs (e)(1)(i) through (e)(1)(iii) of the Standard (develop monitoring [1] and inspection data that supports the demonstrations required by paragraphs (e)(1)(i) and (e)(1)(ii), *i.e.,* the elimination or isolation of physical hazards such that the only hazard in the space is an actual or potential hazardous atmosphere, and that continuous forced-air ventilation is sufficient to maintain the space safe for entry), and make this documentation available to employees who enter the spaces under the alternate procedures, or to their authorized representatives.

In addition, paragraph (e)(2)(ix) requires the employer to verify that the permit space is safe for entry and that the employer took the measures required by paragraph (e)(2) (the procedures that employers must follow for permit space entries made under paragraph (e)(1)). The verification must be in the form of a certification that contains the date, the location of the space, and the signature of the certifying individual. The employer must make the alternate procedure documentation of paragraphs (e)(1)(v) and (e)(2)(ix) available to entrants or to their employees' authorized representatives before entry.

29 CFR 1926.1203(e)(2)(viii)—Written Approval for Job-Made Hoisting Systems

Paragraph (e)(2)(vii) allows for the use of job-made hoisting systems if a registered professional engineer approves these systems for personnel hoisting prior to use in entry operations regulated by § 1926.1203(e). Unlike the proposed rule, the final rule requires an engineer's approval to be in writing to ensure that the specifications and limitations of use are conveyed accurately to the employees implementing the job-made hoist, and that the approval can be verified.

29 CFR 1926.1203(g)(3)—Certification of Former Permit Spaces as Non-Permit Spaces

Paragraph (g)(3) requires an entry employer seeking to reclassify a space from permit to non-permit status to document the basis for determining that it eliminated all permit space hazards through a certification that contains the date, the location of the space, and the signature of the certifying individual. In addition, the employer must make the certification available to each employee entering the space or his or her authorized representative. A reevaluation aimed at reestablishing compliance with paragraph (g) will involve the demonstrations, testing, inspection, and documentation required in paragraphs (g)(1) through (g)(3). The employer must substantiate all determinations so that employers, employees, and the agency have the means necessary to evaluate those determinations and ensure compliance with the conditions that would enable the employer to conduct entry operations using the alternate procedures specified by § 1926.1203 following reclassification.

29 CFR 1926.1203(h)—Permit Space Entry Communication and Coordination

In paragraph (h), OSHA designates the controlling contractor, rather than the host employer, as the information hub for confined spaces information-sharing and coordination because the

[1] In this context, the final rule uses ''monitoring'' to match the general industry language, and the term encompasses both the initial testing of atmosphere and the subsequent measurements.

controlling contractor's function at a construction site makes it better situated than the host employer (assuming that the host employer is not also the controlling contractor) to contribute to and to facilitate a timely and accurate information exchange among all employers who have employees involved in confined space work. On a construction worksite, the controlling contractor has overall authority for the site and is best situated to receive and disseminate information about the previous and current work performed there.

29 CFR 1926.1203(h)(1)—Pre-Entry Duties of Host Employer

Paragraph (h)(1) requires the host employer to share with the controlling contractor information that the host has about the location of known permit spaces, the hazards or potential hazards in each space or the reason it is a permit space, and any previous steps that it took, or that other employers took, to protect workers from the hazards in those spaces.

29 CFR 1926.1203(h)(2)—Pre-Entry Information-Sharing Duties of Controlling Contractors

OSHA requires controlling contractors to obtain the information specified in paragraph (h)(1) from the host employer (*i.e.,* the location of permit spaces, the known hazards in those spaces, and measures employed previously to protect employees in that space). Then, before permit space entry, it must relay that information to any entity entering the permit space and to any entity whose activities could foreseeably result in a hazard in the confined space. (See paragraph (h)(2)(ii).) The controlling contractor must also share any other information that it has gathered about the permit space, such as information received from prior entrants.

29 CFR 1926.1203(h)(2)(i)—Controlling Contractor Obtains Information From Host Employer

Paragraph (h)(2)(i) requires the controlling contractor to obtain from the host employer, before permit space entry, available information regarding permit space hazards and previous entry operations.

29 CFR 1926.1203(h)(2)(ii)—Controlling Contractor Provides Information to Entities Entering a Permit Space and Other Entities at the Worksite

Paragraph (h)(2)(ii)(A) and (B) require the controlling contractor, before entry operations begin, to share with the entrants, and any other entity at the worksite whose activities could foreseeably result in a hazard in the permit space, the information that the controlling contractor received from the host employer, as well as any additional information the controlling contractor has about the topics listed in paragraphs (h)(1)(i) through (iii) (*i.e.,* the location of permit spaces, the hazards in those spaces, and any previous efforts to address those hazards).

Paragraph (h)(2)(ii)(C) requires the controlling contractor, before entry operations begin, to share with each specified entity any precautions or procedures that the host employer, controlling contractor, or any entry employer implemented earlier for the protection of employees working in permit spaces.

29 CFR 1203(h)(3)—Pre-Entry Information-Sharing Duties of Entry Employers

This provision sets forth the information-exchange requirements for entry employers.

29 CFR 1926.1203(h)(3)(i)

Paragraph (h)(3)(i) requires an entry employer to obtain information about the permit space entry operations from the controlling contractor, and works with paragraph (h)(2), which requires the controlling contractor to share information about permit-space entry operations with the entry employer.

29 CFR 1926.1203(h)(3)(ii)

Paragraph (h)(3)(ii) requires an entry employer to inform the controlling contractor of the permit space program that the entry employer will follow, including information about any hazards likely to be confronted or created in each permit space. This exchange must take place prior to entry to ensure that the controlling contractor is informed of all the hazards in a timely manner and can take action, if needed, to prevent an accident or injury before entry operations begin.

29 CFR 1926.1203(h)(4)—Coordination Duties of Controlling Contractors and Entry Employers

Paragraph 1203(h)(4) requires controlling contractors and entry employers to coordinate permit space entry operations in two circumstances: (1) When more than one entity performs entry operations at the same time, or (2) when permit space entry is performed at the same time that any activities that could foreseeably result in a hazard in the permit space are performed.

29 CFR 1926.1203(h)(5)—Post-Entry Duties of Controlling Contractors and Entry Employers

Paragraph (h)(5)(i) requires the controlling contractor to debrief each entity that entered a permit space, at the end of entry operations, about the permit space program followed, and any hazards confronted or created in the permit space(s) during entry operations, and then, as required by paragraph (h)(5)(iii), relay appropriate information to the host employer. Paragraph (h)(5)(ii) requires the entry employer to share the same information with the controlling contractor in a timely manner.

29 CFR 1926.1203(i)—Absence of a Controlling Contractor

Paragraph (i) provides that, in the event no employer meets the definition of a controlling contractor on a particular worksite, the host employer or other employer that arranges for permit space entry work must fulfill the information exchange and coordination duties of a controlling contractor.

29 CFR 1926.1204—Permit Required Confined Space Program

The agency requires each employer with employees who will enter a permit space to have and implement a written permit space program at the construction site (with the exception of ventilation-only entries conducted in accordance with § 1926.1203(e)). Also see discussion of 29 CFR 1926.1203(d) and 29 CFR 1926.1212(a), requirements that pertain to the written program.

As required elements of the written program, OSHA considers all provisions of § 1926.1204 to be information collection requirements: *e.g.,* paragraphs (a) (implementation of the measures necessary to prevent unauthorized entry); (b) (identification and evaluation of the hazards of PRCSs); (c) (safe permit space entry operations); (d) (equipment); (e) (evaluation of PRCS conditions during entry operations); (f) (attendant required); (g) (attendant emergency procedures); (h) (designation of entry operation duties); (i) (summoning rescue and emergency services procedures); (j) (system for cancellation of entry permits, including safe termination of entry operations); (k) (entry operation coordination procedures); (l) (entry operation conclusion procedures); (m) (entry operation review); and (n) (permit space program review). In addition, some provisions of § 1926.1204 constitute information collection requirements for reasons other than inclusion in the written program, as described below.

29 CFR 1926.1204(c), (g), (h), (i), (j), (k) and (l))—Development of Procedures

Paragraph 1926.1204(c) requires an employer to develop procedures needed to facilitate safe entry operations into permit spaces. The subparagraphs in (c) provide specific elements of the required procedures that employers must include in the permit program: Identifying safe entry conditions that employers must meet to initiate and conduct the entry safely (paragraph (c)(1)); providing each authorized entrant with the opportunity to observe monitoring or testing (paragraph (c)(2)); isolating the PRCS (paragraph (c)(3)); purging, inerting, flushing, or ventilating the permit space (paragraph (c)(4)); ensuring that monitoring devices will detect an increase in atmospheric hazard levels in the event that the ventilation system malfunctions, and to do so in adequate time for employees to safely exit the space (paragraph (c)(5)); providing barriers to protect entrants from external hazards (paragraph (c)(6)); verifying that conditions are acceptable for entry and preventing employees from entering the permit space with a hazardous atmosphere unless demonstrating that personal protective equipment (PPE) will be effective for each employee (paragraph (c)(7)); and eliminating any conditions that could make it unsafe to remove an entrance cover (paragraph (c)(8)). Before entry is authorized, each entry employer must document the completion of these measures by preparing an entry permit, as required by paragraph 1926.1205(a).

Under paragraphs (g) through (l), entry employers are also required to develop procedures for: Having an attendant respond to emergencies affecting multiple permit spaces monitored (paragraph (g)); specifying employees' name, confined space entry roles and duties (paragraph (h)); summoning rescue and emergency services, rescuing entrants from permit spaces, providing necessary emergency services to rescued employees, preventing unauthorized personnel from attempting a rescue (paragraph (i)); cancelling entry permits (paragraph (j)); coordinating entry operations (paragraph (k)); and for terminating an entry permit and entry operations (paragraph (l)).

29 CFR 1926.1204(c)(3) and 1203(e)(1)(i)—Lockout/Tagout

Paragraphs (c)(3) and (e)(1)(i) (for PRCSs using alternate procedures) require tagging in accordance with the definition of ''isolate'' or ''isolation'' (see paragraph 1202), which requires employers to ''lockout or tagout . . . all sources of energy.''

29 CFR 1926.1204(e)(6)—Providing Testing and Monitoring Results to Employees

Paragraph (e)(6) requires each entry employer to immediately provide the results of any testing conducted in accordance with paragraph 1204 to each authorized entrant or that employee's authorized representative.

29 CFR 1926.1204(m)—Review of Entry Operations and Revision of Procedures When Inadequate

Paragraph (m) requires each entry employer to review the permit space program whenever the procedures are inadequate, and to revise those procedures when necessary.

29 CFR 1926.1204(n)—Annual Review of Written Program

Paragraph (n) requires each entry employer to review the permit space program at least every year and make revisions to the procedures as necessary. This provision requires an employer to review cancelled permits within one year after each entry.

29 CFR 1926.1205—Permitting Process

An employer conducting a permit space entry must post an entry permit outside the permit space to document the employer's efforts to identify and control conditions in that permit space. Section 1205 sets forth the required process for establishing entry permits and § 1926.1206 sets forth the required specific information that must be identified on the permit.

29 CFR 1926.1205(a)—Preparing an Entry Permit

Paragraph (a) requires each entry employer to prepare, prior to entry into a PRCS, an entry permit containing all the information specified in § 1926.1204(c) (practices and procedures for ensuring safe entry).

29 CFR 1926.1205(b) and 1926.1210(b)—Signing the Permit

Paragraph (b) requires the entry supervisor to sign the permit before entry begins. Similarly, paragraph 1926.1210(b) requires the entry supervisor to verify that the employer performed all tests specified by the entry permit, and that all procedures and equipment so specified are in place before he or she may sign the permit and allow entry. The paragraph also specifies that the entry supervisor must verify this information by checking that the corresponding entries made on the permit.

29 CFR 1926.1205(c)—Posting the Permit

Paragraph (c) requires an employer to make the completed entry permit available to all authorized entrants, or their authorized representatives, at the time each employee enters the space, by posting it at the entry portal or by any other equally effective means, so that entrants can confirm that pre-entry preparations have been accomplished.

29 CFR 1926.1205(f)—Retaining the Permit

Paragraph (f) requires the employer to retain each entry permit for at least 1 year to facilitate the review of the permit required by paragraph 1926.1204(n) of the Standard. Any problems encountered during an entry operation must be noted on the pertinent permit so that appropriate revisions to the permit space program can be made. Employers should list the problems encountered during entry resulting in the cancellation or suspension of a permit on the entry permit.

29 CFR 1926.1206—Entry Permit

An employer conducting a permit space entry must post an entry permit outside the permit space to document the employer's efforts to identify and control conditions in that permit space (see § 1926.1205(c)).

29 CFR 1926.1206 (a)–(p) and 29 CFR 1926.1209(c)—Contents of the Permit

Paragraphs 1926.1206(a)–(p) and 1926.1209(c) set forth the information which must be identified on the permit. Paragraph (a) requires the employer to identify the permit space workers are planning to enter. Paragraph (b) requires the employer to record the purpose of the entry. This information must be sufficiently specific, such as identifying specific tasks or jobs that employees are to perform within the space, to confirm that the employer considered performance of each specific construction activity in the hazard assessment of the PRCS. Paragraph (c) requires the employer to record the date and authorized duration of the planned entry. Paragraph (d) and paragraph 1209(c) require the employer to record the identity of the authorized entrants so that the attendant is capable of safely overseeing the entry operations. Employers can meet this requirement by referring in the entry permit to a system such as a roster or tracking system used to keep track of who is currently in the PRCS. Under paragraph (e), when a permit program requires ventilation, OSHA requires employers to ensure that they have a monitoring system in place

that will alert employees of increased atmospheric hazards in the event the ventilation system stops working. (See § 1926.1204(c)(5).) This provision requires the employer to record the means of detecting an increase in atmospheric-hazard levels if the ventilation system stops working. Paragraph (f) requires the employer to record the names of each attendant required to be stationed outside each permit space for the duration of entry operations. Paragraph (g) requires the employer to record the name of each employee currently serving as entry supervisor. Paragraph (h) requires the employer to record the hazards associated with the planned confined space entry operations. This list must include all hazards, regardless of whether the employer protects the authorized entrants from the hazards by isolation, control, or PPE. Paragraph (i) requires the employer to record the measures used to isolate or control the hazards prior to entry. Paragraph (j) requires the employer to specify the acceptable entry conditions. Paragraph (j) also requires employers, when applicable, to provide the ventilation malfunction determinations made in paragraph (c)(5) of § 1926.1204. Paragraph (k) requires the employer to record the dates, times, and results of the tests and monitoring performed prior to entry, and the names or initials of the individual/s who performed each test. Employers also must include the initial entry monitoring results on the entry permit; these results serve as a baseline for subsequent measurements. Paragraph (l) requires the employer to identify the rescue and emergency services required by the Standard, and the means by which these services will be summoned when needed. In some cases, an employer must include pertinent information, such as communication equipment and emergency telephone numbers, on the permit to sufficiently identify the means by which the rescue services will be summoned. Paragraph (m) requires the employer to record all the methods of communication used by authorized entrants and attendants during entry operations. Paragraph (o) requires the employer to record any additional information needed to ensure safe confined space entry operations. Paragraph (p) requires the employer to record information about any other permits, such as for hot work, issued for work inside the confined space. If the employer identifies additional permits, these additional permits may be, but are not required to be, attached to the entry permit.

29 CFR 1926.1207(d)—Training Records

Under paragraph (d), employers must maintain training records. In addition, the employer record must contain the names of each employee trained, the trainer's name, and the dates of training, and the employer must make these records available for inspection by employees and their authorized representatives for the period of time that the employee is employed by the employer. This documentation can take any form that reasonably demonstrates the employee's completion of the training.

29 CFR 1926.1208—Duties of Authorized Entrants

29 CFR 1926.1208(c)) and 29 CFR 1926.1208(d)—Communicate With Attendant

Paragraph (c) requires an employer to ensure that an authorized entrant communicates effectively with the attendant to facilitate the assessment of entrant status and timely evacuation as required by § 1209(f).

Paragraph (d) requires an employer to ensure that an authorized entrant alerts the attendant whenever one of the following circumstances in paragraphs 1926.1208(d)(1)–(2) arises: (1) There is a warning sign or symptom of exposure to a dangerous situation; or (2) the entrant recognizes a prohibited condition. In some instances, a properly trained authorized entrant may be able to recognize and report his/her own symptoms, such as headache, dizziness, or slurred speech, and take the required action. In other cases, the authorized entrant, once the effects begin, may be unable to recognize or report them. In these latter cases, this provision requires that other, unimpaired, authorized entrants in the PRCS, who employers must properly train to recognize signs, symptoms, and other hazard exposure effects in other authorized entrants, report these effects to the attendant.

29 CFR 1926.1209—Duties of Attendants

29 CFR 1926.1209(e)—Communicate With Authorized Entrants

Paragraph (e) requires the attendant to communicate with authorized entrants as necessary to assess and keep track of the entrants' status and to notify entrants if evacuation under paragraph 1926.1209(f) of the Standard is necessary. Use of the word ''assess'' connotes an interactive duty in which the attendant may ask questions of the entrant, or ask the entrant to perform a task so that the attendant can evaluate the entrant's status.

29 CFR 1926.1209(f)—Order Evacuation

Paragraph 1926.1209(f) requires the attendant to assess the activities and conditions inside and outside the space to determine if it is safe for entrants to stay in the space. OSHA requires the attendant to evacuate the permit space under any of the four ''conditions'' listed in paragraphs 1926.1209(f)(1) through (f)(4): (1) The attendant notices a prohibited condition, (2) the attendant identifies the behavioral effects of hazard exposure in an authorized entrant, (3) there is a condition outside the space that could endanger the authorized entrants, or (4) the attendant cannot effectively and safely perform the duties required under § 1926.1209. If the attendant notices a condition or activity outside the space not addressed by the entry coordination procedures, then the attendant or entry supervisor could, directly or through the controlling contractor, seek to correct the condition or stop the activity (such as described in the above example). If the attendant cannot address the situation immediately, then the attendant must order the entrants to evacuate the permit space until the employer resolves the problem.

29 CFR 1926.1209(g)—Summon Rescue Services

Paragraph (g) requires the attendant to call upon rescue and other emergency services as soon as he or she decides that authorized entrants may need assistance to escape from permit space hazards.

29 CFR 1926.1209(h)—Entry Employer Duties

Paragraph (h) requires the attendant to take the actions specified in § 1926.1209(h)(1) through (h)(3) to prevent unauthorized persons from entering a permit space while entry is taking place.

29 CFR 1926.1209(h)(1)—Warn Non-Authorized Entrants to Stay Away

If someone other than an authorized entrant happens to approach the PRCS, paragraph (h)(1) specifies that the attendant must make that individual aware that he/she must stay away from the PRCS. Some construction sites may be accessible to the public, so the attendant also would be responsible for warning members of the public who may attempt to enter a permit space at the site.

29 CFR 1926.1209(h)(2)—Advise Non-Authorized Entrants to Exit the PRCS Immediately

Paragraph (h)(2) requires the attendant, should an unauthorized

person enter the PRCS, to advise him/her to exit the space immediately.

29 CFR 1926.1209(h)(3)—Notify the Entry Supervisor of Unauthorized Persons in the PRCS

Paragraph (h)(3) requires the attendant to notify the entry supervisor, along with the authorized entrants, of unauthorized persons who have entered the PRCS.

29 CFR 1926.1210—Duties of Entry Supervisors

Paragraph (b) is described above in the discussion of paragraph 1926.1205(a). Paragraph (d) is described below in the discussion of paragraph (c).

29 CFR 1926.1211—Rescue and Emergency Services

29 CFR 1926.1211(a)(1) and (a)(2)—Assess Prospective Rescue Service's Response Abilities

Paragraph (a)(1) requires an employer to assess a prospective rescue service's ability to respond to a rescue summons in a timely manner. Paragraph (a)(2) requires an employer to assess a prospective rescue service's ability to provide adequate and effective rescue services. In evaluating a prospective rescue provider's abilities, the employer also must consider the willingness of the service to become familiar with the particular hazards and circumstances faced during the permit space entries. Paragraphs (a)(4) and (a)(5) of § 1926.1211 require the employer to provide the designated rescuers with information about the confined spaces and access to those spaces to allow the rescuers to develop appropriate rescue plans and to perform rescue drills.

29 CFR 1926.1211(a)(4)—Communicate With Rescue Services

Paragraph (a)(4) requires an employer to inform the designated rescue service of the known hazards associated with the permit space in the event that a rescue becomes necessary. To meet the requirements of this provision, the employer would have to inform the rescue service prior to issuing a permit that the employer selected the service to rescue the employees in the event of an emergency, and that the employer is relying on the rescue services to perform these rescues when necessary. Compliance with this paragraph, as well as with paragraphs (a)(1) and (a)(2) of this section, often requires the employer to provide this information to the rescue service immediately prior to each permit space entry. Similarly, if an entry involves hazards not usually encountered by the rescue service, or hazards or a configuration that would require the rescue service to use equipment that it does not always have available, then the employer would have to notify the rescue service of these hazards and conditions prior to beginning the entry operation.

29 CFR 1926.1211(a)(5)—Develop a Rescue Service Plan

Paragraph (a)(5) requires an employer to provide the designated rescue team or service with access to all permit spaces from which the rescue may need to perform a rescue so that the rescue team or service, whether in-house or third party, can develop appropriate rescue plans.

29 CFR 1926.1210(d) and 29 CFR 1926.1211(c)—Confirm Rescue Service Availability

If an entry employer determines that it will use non-entry rescue, it must confirm, prior to entry, that emergency assistance *will be available* in the event that non-entry rescue fails. Likewise, paragraph (d) requires the entry supervisor to verify that rescue services are available, and that the means for obtaining such services are operable.

29 CFR 1926.1211(d)—Provide Safety Data Sheet (SDS) to Treating Medical Facilities

Paragraph (d) requires an employer to provide relevant information about a hazardous substance to a medical facility treating an entrant exposed to the hazardous substance if the substance is one for which the employer must keep a SDS or other similar information at the worksite.

29 CFR 1926.1212—Employee Participation

29 CFR 1926.1212(a)—Consult With Employees/Authorized Representatives on Development and Implementation of a Written Program

Paragraph (a) requires employers to consult with affected employees and their authorized representatives in the development and implementation of the written permit space program required by § 1926.1203.

29 CFR 1926.1212(b)—Employee Access

Paragraph (b) requires that affected employees and their authorized representatives have access to all information developed under this standard. Other sections of this standard already specifically require that employers make information available to employees and their representatives. These provisions include §§ 1926.1203(d) (written program); 1926.1203(e)(1)(v) and (e)(2)(ix) (alternate procedure certification); 1926.1203(g) (reclassification certification); 1926.1204(e)(6) (monitoring and testing results); 1926.1205(c) (completed permit); and 1926.1207(d) (training records).

29 CFR 1926.1213—Disclosure

Paragraph 1926.1213 requires an employer, who must retain documentation under the Standard, to make this information available to the Secretary of Labor, or a designee, upon request. The request from the Secretary or the Secretary's designee (for example, OSHA) may be either oral or written.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply—for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The agency requests approval for an adjustment increase of 47,047.02 burden hours (from 660,103 to 707,150.02) to adjust for an increase in the estimated number of affected employers. For the same reason, the agency also requests approval for an increase of $82,670.19 in capital costs (from $1,017,859 to $1,100,529.19) for signs, tags, and gas monitors.

Type of Review: Extension of a currently approved collection.

Title: Confined Spaces in Construction (29 CFR part 1926 subpart AA).

OMB Control Number: 1218–0258.

Affected Public: Business or other for-profits.

Number of Respondents: 32,510.

Frequency: Initially; Annually; On occasion.

Average Time per Response: Varies.

Estimated Number of Responses: 4,426,655.

Estimated Total Burden Hours: 707,150.02.

Estimated Cost (Operation and Maintenance): $1,100,529.19.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. **Please note:** While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2017–0014). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify electronic comments by your name, date, and the docket number so that the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, 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 and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. 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 19, 2021.

Amanda L. Edens,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–04044 Filed 2–25–21; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATE: The Members of the National Council on Disability (NCD) will hold a quarterly business meeting on Thursday, March 11, 2021, 1:00 p.m.–4:00 p.m., Eastern Standard Time (EST).

PLACE: This meeting will occur via Zoom videoconference. Registration is not required. Interested parties are encouraged to join the meeting in an attendee status by Zoom Desktop Client, Mobile App, or Telephone to dial-in. Updated information is available on NCD's event page at *https://ncd.gov/events/2021/upcoming-council-meeting.* To join the Zoom webinar, Please use the following URL: *https://zoom.us/j/91726349831?pwd=dTNxNHFoWUdYRVRGaER1SG53Qm01dz09* or enter Webinar ID: 917 2634 9831 in the Zoom app. The Passcode is: 271768.

To join the Council Meeting by telephone, dial one of the preferred numbers listed. The following numbers are (for higher quality, dial a number based on your current location): (312) 626–6799; (646) 876–9923; (301) 715–8592; (346) 248–7799; (408) 638–0968; (669) 900–6833; or (253) 215–8782. You will be prompted to enter the meeting ID 917–2634–9831 and passcode 271768.

In the event of teleconference disruption or failure, attendees can follow the meeting by accessing the Communication Access Realtime Translation (CART) link provided. CART is text-only translation that occurs real time during the meeting and is not an exact transcript.

MATTERS TO BE CONSIDERED: Following welcome remarks and introductions, the Chairman will provide a report; followed by a discussion on open items from the November 2020 Council Meeting; reports provided by the Executive Director and representatives from the Executive Committee; an update on policy projects for the remainder of Fiscal Year 2021; discussion of follow-up projects on former policy reports; a schedule of 2021 Council Meetings; and any unfinished business before adjournment.

Agenda: The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Eastern Standard Time):

Thursday, March 11, 2021

1:00–1:10 p.m. Welcome and Call to Order
1:10–1:30 p.m. Chairman's Report
1:30–2:00 p.m. Open Items from November 2020 Council Meeting
2:00–2:15 p.m. Executive Director's Report
2:15–2:45 p.m. Executive Committee Report
2:45–3:15 p.m. Policy Project Updates, Remainder FY21
3:15–3:45 p.m. Follow-up Projects on Former Policy Reports
3:45–4:00 p.m. Schedule of 2021 Council Meetings, Unfinished Business
4:00 p.m. Adjourn

Public Comment: There is no in-person public comment session during this council meeting, however the Council is soliciting public comment by email, providing an opportunity to hear from you—individuals, businesses, providers, educators, parents and advocates. Your comments are important in bringing attention to the issues in your community. Of specific interest is your feedback to the Vision and Priority Statement released by NCD Chairman Andrés Gallegos, available at: *https://ncd.gov/newsroom/2021/vision-and-priority-statement-ncd-chairman-gallegos,* and any general topics you would like to share with the Council. To provide comments, please send an email to *PublicComment@ncd.gov* with the subject line ''Public Comment'' and your name, organization, state, and topic of comment included in the body of your email.

CONTACT PERSON FOR MORE INFORMATION: Nicholas Sabula, NCD, 1331 F Street NW, Suite 850, Washington, DC 20004; 202–272–2004 (V), or *nsabula@ncd.gov.*

Accommodations: An ASL interpreter will be available on video during the meeting, and a CART streamtext link has been arranged for this meeting. The web link to access CART (in English) is: *https://www.streamtext.net/player?event=NCD-QUARTERLY.* If you require additional accommodations, please notify Anthony Simpson by sending an email to *asimpson.cntr@ncd.gov* as soon as possible and no later than 24 hours prior to the meeting.

Due to last-minute confirmations or cancellations, NCD may substitute

agenda items without advance public notice.

Dated: February 24, 2021.

Anne C. Sommers McIntosh,

Executive Director.

[FR Doc. 2021–04207 Filed 2–24–21; 4:15 pm]

BILLING CODE 8421–02–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board (NSB), hereby gives notice of an agenda item changed on short notice to the meeting listed below.

The original **Federal Register** notice appeared on February 19, 2021 at 86 FR 10359.

TIME AND DATE: Tuesday, February 23, 2021 at 6:10 p.m. EST, and Wednesday, February 24, 2021 at 11:45 a.m. EST.

PLACE: The meeting will be held by videoconference. Members of the public may observe the public meeting, which will be streamed to the NSF You Tube channel. For meetings on Tuesday, February 23, go to: *https://youtu.be/6JjWhwMhIKM.*

For meetings on Wednesday, February 24, go to: *https://youtu.be/tmiQwe7o_Y0.*

MATTERS TO BE CONSIDERED:

Tuesday, February 23, 2021

Closed Session: 6:10 p.m.–6:45 p.m.

- Committee Chair's Remarks
- Approval of Prior Minutes
- Update on FY 2021 Budget and 2022 Budget Request Development

Wednesday, February 24, 2021

Open session: 11:45 a.m.–2:15 p.m.

- Committee Chair's Remarks
- Approval of Prior Minutes
- FY 2021 and FY 2022 Budget Update
- Presentation and discussion: Strengthening Foundational Research
- Presentation and discussion: NSF Translation and Innovation Activities
- Presentation and discussion: NSF's Missing Millions Efforts
- NSF Strategic Plan 2022–2026

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2021–04117 Filed 2–24–21; 11:15 am]

BILLING CODE 7555–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0228, CSRS/FERS Documentation in Support of Disability Retirement Application, Standard Form 3112

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an expiring information collection request (ICR) with minor edits, CSRS/FERS Documentation in Support of Disability Retirement Application, Standard Form 3112.

DATES: Comments are encouraged and will be accepted until March 29, 2021.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to: *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0228) was previously published in the **Federal Register** on June 1, 2020 at 85 FR 33205, allowing for a 60-day public comment period. No comments were received.

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Standard Form 3112, CSRS/FERS Documentation in Support of Disability Retirement Application, collects information from applicants for disability retirement so that OPM can determine whether to approve a disability retirement under title 5, U.S.C. Sections 8337 and 8455. The applicant will only complete Standard Forms 3112A and 3112C. Standard Forms 3112B, 3112D and 3112E will be completed by the immediate supervisor and the employing agency of the applicant.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: CSRS/FERS Documentation in Support of Disability Retirement.

OMB Number: 3206–0228.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 13,450 [1,350 (SF 3112A) and 12,100 (SF 3112C)].

Estimated Time per Respondent: 30 minutes (SF 3112A) and 60 minutes (SF 3112C).

Total Burden Hours: 12,775 hours [675 hours (SF 3112A) and 12,100 hours (SF 3112C)].

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–03964 Filed 2–25–21; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Comment Request for Review of a Revised Information Collection: Organizational Surveys

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of a

currently approved collection, Organizational Surveys. OPM is requesting approval of Organizational Assessment Surveys, OPM Federal Employee Viewpoint Surveys, Exit Surveys, New Leaders Onboarding Assessments, New Employee Surveys, Training Needs Assessment Surveys, and custom Program Evaluation surveys as a part of this collection. Approval of the organizational surveys is necessary to collect information on Federal agency and program performance, climate, engagement, and leadership effectiveness.

DATES: Comments are encouraged and will be accepted until April 27, 2021.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Human Resources Strategy and Evaluation Solutions, Office of Personnel Management, 1900 E Street NW, RM 2469, Washington, DC 20415, Attention: Coty Hoover, C/O Henry Thibodeaux, or via email to *Organizational_Assessment@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this information collection request, with applicable supporting documentation, may be obtained by contacting Human Resources Strategy and Evaluation Solutions, Office of Personnel Management, 1900 E Street NW, RM 2469, Washington, DC 20415, Attention: Coty Hoover, C/O Henry Thibodeaux, via email to *Organizational_Assessment@opm.gov* or 202–606–8001.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The previous collection (OMB No. 3206–0252, published in the **Federal Register** on December 27, 2017 at 82 FR 61338) has a clearance that expires June 30, 2021. Comments are particularly invited 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. Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and
3. Ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of the appropriate technological collection techniques or other forms of information technology.

OPM's Human Resources Strategy and Evaluation Solutions performs assessment and related consultation activities for Federal agencies on a reimbursable basis. The assessments are authorized by various statutes and regulations: Section 4702 of Title 5, U.S.C.; E.O. 12862; E.O. 13715; Section 1128 of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108–136; 5 U.S.C. 1101 note, 1103(a)(5), 1104, 1302, 3301, 3302, 4702, 7701 note; E.O. 13197, 66 FR 7853, 3 CFR 748 (2002); E.O. 10577, 12 FR 1259, 3 CFR, 1954–1958 Comp., p. 218; and Section 4703 of Title 5, United States Code.

This collection request includes surveys we currently use and plan to use during the next three years to measure agency performance, climate, engagement, and leadership effectiveness. OMB No. 3206–0252 covers a broad range of surveys all focused on improving organizational performance. Non-Federal respondents will almost never receive more than one of these surveys. All of these surveys consist of Likert-type, mark-one, and mark-all-that-apply items, and may include a small number of open-ended comment items. Organizational Assessment Surveys (OAS) typically include a customized set of 50–150 standard items pulled from an item bank of nearly 500 items and a small set of 5–10 custom items developed to meet the agency's specific needs. OPM's Human Resources Strategy and Evaluation Solutions administers a supplemental OPM Federal Employee Viewpoint Survey (OPM FEVS), a type of organizational assessment survey, to employee groups not covered by the official OPM FEVS administration. Exit Surveys consist of approximately 100 items that assess reasons why employees decided to leave their organization. Customization is possible. The New Leaders Onboarding Assessment (NLOA) is a combined assessment consisting of approximately 100 items, including items measuring organizational climate, employee engagement, and leadership. New Employee Surveys consist of approximately 100 items that assess satisfaction with the hiring, orientation, and socialization of new employees. Training Needs Assessment Surveys consist of approximately 100 items that assess an agency's climate for training and employees' training preferences. Program Evaluation surveys evaluate the effectiveness of government initiatives, programs, and offices. Program Evaluation surveys are always customized to assess specific program elements. Program Evaluation surveys may contain from 20 to 200 items, with an average of approximately 100 items. The surveys included under OMB No. 3206–0252 are almost always administered electronically.

Analysis

Agency: Human Resources Strategy and Evaluation Solutions, Office of Personnel Management.
Title: Organizational Surveys.
OMB: 3206–0252.
Frequency: On occasion.
Affected Public: Government contractors and individuals.
Number of Respondents: Approximately 78,780.
Estimated Time per Respondent: 10.62 minutes.
Total Burden Hours: 13,944 hours.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–03963 Filed 2–25–21; 8:45 am]

BILLING CODE 6325–43–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Establishment Information Form, DD 1918, Wage Data Collection Form, DD 1919, Wage Data Collection Continuation Form, DD 1919C, 3206–0036

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0036, Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C). As required by the Paperwork Reduction Act of 1995 as amended by the Clinger-Cohen Act, OPM is soliciting comments for this collection.

DATES: Send comments on or before April 27, 2021. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

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

All submissions received must include the agency name and docket

number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Personnel Management, Employee Services, Pay and Leave, 1900 E Street NW, Room 7H31, Washington, DC 20415–8200, Attention: Brenda L. Roberts, Deputy Associate Director for Pay and Leave, by phone 202–606–7400, or sent via electronic mail to *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

The Federal Wage System (FWS) is the pay system established under 5 U.S.C. 5341 *et seq.* for prevailing rate employees who work in trade, craft, and laboring occupations. The FWS establishes rates of pay for Federal prevailing rate employees through local wage surveys of private sector employers. The FWS includes 130 appropriated fund and 118 nonappropriated fund local wage areas. The Establishment Information Form, the Wage Data Collection Form, and the Wage Data Collection Continuation Form are wage survey forms developed by OPM based on recommendations of the Federal Prevailing Rate Advisory Committee for use by the Department of Defense to establish prevailing wage rates for FWS employees Governmentwide.

Analysis

Agency: Employee Services, Pay and Leave Policy, Office of Personnel Management.

Title: Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C).

OMB Number: 3260–0036.

Frequency: Annually.

Affected Public: Private Sector Establishments.

Number of Respondents: 21,760.

Estimated Time per Respondent: 1.5 hours.

Total Burden Hours: 32,640.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–03965 Filed 2–25–21; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0219]

Submission for Review: Revision of an Existing Information Collection, USAJOBS®

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0219, USAJOBS.

DATES: Comments are encouraged and will be accepted until March 29, 2021.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Human Resources Solutions, Federal Staffing Center, USAJOBS, 1900 E Street NW, Washington, DC 20415, Attention: John Still or send them via electronic mail to *john.still@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the U.S. Office of Personnel Management, Human Resources Solutions, Federal Staffing Center, USAJOBS, 1900 E Street NW, Washington, DC 20415, Attention: John Still, or by sending a request via electronic mail to *john.still@opm.gov,* or call 202–606–8001.

SUPPLEMENTARY INFORMATION: USAJOBS is the Federal Government's centralized source for most Federal jobs and employment information, including both positions that are required by law to be posted at that location and positions that can be posted there at an agency's discretion. The Applicant Profile and Resume Builder are two components of the USAJOBS application system. USAJOBS reflects the minimal critical elements collected across the Federal Government to begin an application for Federal jobs under the authority of sections 1104, 1302, 3301, 3304, 3320, 3361, 3393, and 3394 of title 5, United States Code. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0219) was previously published in the **Federal Register** on November 30, 2020 at 85 FR 76628 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Office of Personnel Management

Title: USAJOBS

OMB Number: 3206–0219

Frequency: Annually

Affected Public: Individuals

Number of Respondents: 4,529,824

Estimated Time per Respondent: 43 Minutes

Total Burden Hours: 3,246,374

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–04157 Filed 2–25–21; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34200; 812–15134]

Russell Investment Company, et al.; Notice of Application

February 23, 2021.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under Section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from Section 15(c) of the Act.

APPLICANTS: Russell Investment Company and Russell Investment Funds (each a ''Trust,'' and collectively the ''Trusts''), each a Massachusetts business trust registered under the Act as an open-end management investment company with multiple series and Russell Investment Management, LLC (''Adviser''), a Washington limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') that serves an investment adviser to such series (collectively the ''Applicants'').

SUMMARY OF APPLICATION: The requested exemption would permit each Trust's board of trustees (the ''Board'') to approve new sub-advisory agreements and material amendments to existing sub-advisory agreements for the Subadvised Series (as defined below), without complying with the in-person meeting requirement of Section 15(c) of the Act.

FILING DATES: The application was filed on June 8, 2020, and amended on October 2, 2020, and January 19, 2021.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving Applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on March 26, 2021, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Mary Beth Albaneze, Esq., Associate General Counsel, Russell Investment Management, LLC at *MAlbaneze@russellinvestments.com.*

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551–6817, or Kaitlin C. Bottock, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number or an Applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

I. Requested Exemptive Relief

1. Applicants request an exemption from Section 15(c) of the Act to permit the Board,[1] including the Independent Board Members,[2] to approve an agreement (each a ''Sub-Advisory Agreement'') pursuant to which a sub-adviser manages all or a portion of the assets of one or more of the series, or a material amendment thereof (a ''Sub-Adviser Change''), without complying with the in-person meeting requirement of Section 15(c).[3] Under the requested relief, the Independent Board Members could instead approve a Sub-Adviser Change at a meeting at which members of the Board participate by any means of communication that allows them to hear each other simultaneously during the meeting.

2. Applicants request that the relief apply to Applicants, as well as to any future series of each Trust and any other existing or future registered open-end management investment company or series thereof that intends to rely on the requested order in the future and that: (i) Is advised by the Adviser;[4] (ii) uses the multi-manager structure described in the application; and (iii) complies with the terms and conditions of the application (each, a ''Subadvised Series'').[5]

II. Management of the Subadvised Series

3. The Adviser will serve as the investment adviser to each Subadvised Series pursuant to an investment advisory agreement with each Trust (each an ''Advisory Agreement''). The Adviser, subject to the oversight of the Board, will provide continuous investment management services to each Subadvised Series. Applicants are not seeking an exemption from the Act with respect to the Advisory Agreements.

4. Applicants state that the Subadvised Series may seek to provide exposure to multiple strategies across various asset classes, thus allowing investors to more easily access such strategies without the additional transaction costs and administrative burdens of investing in multiple funds to seek to achieve comparable exposures.

5. To that end, the Adviser may achieve its desired exposures to specific strategies by allocating discrete portions of the Subadvised Series' assets to various sub-advisers. Consistent with the terms of each Advisory Agreement and subject to the Board's approval,[6] the Adviser would delegate management of all or a portion of the assets of a Subadvised Series to a sub-adviser.[7] Each sub-adviser would be an ''investment adviser'' to the Subadvised Series within the meaning of Section

[1] The term ''Board'' also includes the board of trustees or directors of a future Subadvised Series (as defined below).

[2] The term ''Independent Board Members'' means the members of the Board who are not parties to the Sub-Advisory Agreement (as defined below), or ''interested persons'', as defined in Section 2(a)(19) of the Act, of any such party.

[3] Applicants do not request relief that would permit the Board and the Independent Board Members to approve renewals of Sub-Advisory Agreements at non-in-person meetings.

[4] The term ''Adviser'' includes (i) the Adviser or its successors, and (ii) any entity controlling, controlled by or under common control with, the Adviser or its successors. For the purposes of the requested order, ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[5] All registered open-end investment companies that currently intend to rely on the requested order are named as applicants. Any entity that relies on the requested order will do so only in accordance with the terms and conditions contained in the application.

[6] A Sub-Advisory Agreement may also be subject to approval by a Subadvised Series' shareholders. Applicants currently rely on a multi-manager exemptive order to enter into and materially amend Sub-Advisory Agreements without obtaining shareholder approval. *See* Frank Russell Company, *et al.,* Investment Company Act Release Nos. 30524 (May 17, 2013) (notice) and 30556 (Jun. 12, 2013) (order).

[7] A sub-adviser may manage the assets of a Subadvised Series directly or provide the Adviser with model portfolio or investment recommendation(s) that would be utilized in connection with the management of a Subadvised Series.

2(a)(20) of the Act.[8] The Adviser would retain overall responsibility for the management and investment of the assets of each Subadvised Series.

III. Applicable Law

6. Section 15(c) of the Act prohibits a registered investment company having a board from entering into, renewing or performing any contract or agreement whereby a person undertakes regularly to act as an investment adviser (including a sub-adviser) to the investment company, unless the terms of such contract or agreement and any renewal thereof have been approved by the vote of a majority of the investment company's board members who are not parties to such contract or agreement, or interested persons of any such party, cast in person at a meeting called for the purpose of voting on such approval.

7. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

IV. Arguments in Support of the Requested Relief

8. Applicants assert that boards of registered investment companies, including the Board, typically hold in-person meetings on a quarterly basis. Applicants state that during the three to four month period between board meeting dates, market conditions may change or investment opportunities may arise such that the Adviser may wish to make a Sub-Adviser Change. Applicants also state that at these moments it may be impractical, and/or costly to hold an additional in-person Board meeting, especially given the geographic diversity of Board members and the additional cost of holding in-person meetings.

9. As a result, Applicants believe that the requested relief would allow the Subadvised Series to operate more efficiently. In particular, Applicants assert that without the delay inherent in holding in-person Board meetings (and the attendant difficulty of obtaining the necessary quorum for, and the additional costs of, an unscheduled in-person Board meeting), the Subadvised Series would be able to act quicker and with less expense to add or replace sub-advisers when the Board and the Adviser believe that a Sub-Adviser Change would benefit the Subadvised Series.

10. Applicants also note that the in-person meeting requirement in Section 15(c) of the Act was designed to prohibit absentee approval of advisory agreements. Applicants state that condition 1 to the requested relief is designed to avoid such absentee approval by requiring that the Board approve a Sub-Adviser Change at a meeting where all participating Board members can hear each other and be heard by each other during the meeting.[9]

11. Applicants, moreover, represent that the Board would conduct any such non-in-person consideration of a Sub-Advisory Agreement in accordance with its typical process for approving Sub-Advisory Agreements. Consistent with Section 15(c) of the Act, the Board would request and evaluate such information as may reasonably be necessary to evaluate the terms of any Sub-Advisory Agreement, and the Adviser and sub-adviser would provide such information.

12. Finally, Applicants note that that if one or more Board members request that a Sub-Adviser Change be considered in-person, then the Board would not be able to rely on the relief and would have to consider the Sub-Adviser Change at an in-person meeting.

V. Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Independent Board Members will approve the Sub-Adviser Change at a non-in-person meeting in which Board members may participate by any means of communication that allows those Board members participating to hear each other simultaneously during the meeting.

2. Management will represent that the materials provided to the Board for the non-in-person meeting include the same information the Board would have received if approval of a Sub-Adviser Change were sought at an in-person Board meeting.

3. The notice of the non-in-person meeting will explain the need for considering the Sub-Adviser Change at a non-in-person meeting. Once notice of the non-in-person meeting to consider a Sub-Adviser Change is sent, Board members will be given the opportunity to object to considering the Sub-Adviser Change at a non-in-person Board meeting. If a Board member requests that the Sub-Adviser Change be considered in-person, the Board will consider the Sub-Adviser Change at an in-person meeting, unless such request is rescinded.

4. A Subadvised Series' ability to rely on the requested relief will be disclosed in the Subadvised Series' registration statement.

5. In the event that the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the Application, the requested order will expire on the effective date of that rule.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–04043 Filed 2–25–21; 8:45 am]

BILLING CODE 8011–01–P

[8] Each sub-adviser would be registered with the Commission as an investment adviser under the Advisers Act or not subject to such registration.

[9] Applicants state that technology that includes visual capabilities will be used unless unanticipated circumstances arise. Applicants also state that the Board could not rely upon the relief to approve a Sub-Advisory Agreement by written consent or another form of absentee approval by the Board.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91178; File No. SR–Phlx–2021–07]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of Proposed Rule Change To Permit the Listing and Trading of Options Based on 1/100th the Value of the Nasdaq-100 Index®

February 22, 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 10, 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 comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's rules to permit the listing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and trading of index options on Nasdaq 100 Micro Index Options (''XND'').

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 purpose of the proposed rule change is to amend the Exchange's rules to permit the listing and trading of index options on Nasdaq 100 Micro Index Options (''XND''). The XND options contract will be the same in all respects as the current Nasdaq-100 Index options (''NDX'') [3] contract listed on the Exchange, except that it will be based on 1/100th of the value of the Nasdaq-100 Index, and will be P.M.-Settled with an exercise settlement value based on the closing index value of the Nasdaq-100 Index on the day of expiration.[4] The Exchange believes that the proposed contract will be valuable for retail and other investors that wish to trade micro options on the Nasdaq-100 Index.

I. Nasdaq-100 Index

The Nasdaq-100 Index is a modified market capitalization-weighted index that includes 100 of the largest non-financial companies listed on The Nasdaq Stock Market LLC (''Nasdaq''),[5] based on market capitalization.[6] It does not contain securities of financial companies, including investment companies. Security types generally eligible for the Nasdaq-100 Index include common stocks, ordinary shares, American Depository Receipts, and tracking stocks. Security or company types not included in the Nasdaq-100 Index are closed-end funds, convertible debentures, exchange traded funds, limited liability companies, limited partnership interests, preferred stocks, rights, shares or units of beneficial interest, warrants, units and other derivative securities.[7]

II. XND Options Contract

Currently, the Exchange lists and trades NDX options that are based on the full value of the Nasdaq-100 Index. In an effort to attract additional interest in index options based on the Nasdaq-100 Index, the Exchange now proposes to list and trade a new micro option contract based on this index. XND options will trade independently of and in addition to NDX options, and the XND options will be subject to the same rules that presently govern the trading of index options based on the Nasdaq-100 Index, including sales practice rules, margin requirements, trading rules, and position and exercise limits. Similar to NDX, XND options will be European-style and cash-settled, and will have a contract multiplier of 100. The contract specifications for XND options will mirror in all respects those of the NDX options contract already listed on the Exchange, except that the Exchange proposes that XND options will be based on 1/100th of the value of the Nasdaq-100 Index, and will be P.M.-settled pursuant to proposed Options 4A, Section 12(a)(5).

Similar features are available with other index options contracts listed and/or approved for trading on the Exchange and other options exchanges, including the Exchange's affiliate, Nasdaq ISE, LLC (''ISE''), which lists options on NQX (a reduced value index based on ⅕ of the value of the Nasdaq-100 Index).[8]

The value of the Nasdaq-100 Index has increased significantly in recent years such that the value of the index stood at 12,112.11, as of the opening of trading on November 25, 2020. As a result of the increase in the value of the underlying Nasdaq-100 Index, the premium for NDX options has also increased. The Exchange believes that this has caused NDX options to trade at a level that may be uncomfortably high for certain retail and other investors. The Exchange believes that listing options at a micro value will attract a greater source of retail customer business. Further, listing options on a micro index will provide an opportunity for investors to trade and hedge the market risk associated with the Nasdaq-100 Index.

With an exercise settlement value based on 1/100th of the Nasdaq-100 Index, the Exchange believes that retail and other investors would be able to use this trading vehicle while extending a smaller outlay of capital. Furthermore, the proposed micro index will have a notional value at a level that is comparable to similar products that have been successful in the market, including the S&P 500 Mini SPX Options Index (XSP), which had an index value of (363.55) as of the opening of trading on November 25th, 2020. The Exchange therefore believes that basing the proposed XND options contract on 1/100 of the value of the Nasdaq-100 Index should attract additional investors, and, in turn, create a more active and liquid trading environment.

XND options will also be P.M.-settled as the Exchange believes that market participants, and in particular, retail investors, who are the target audience for this product, prefer P.M.-settled index options. P.M.-settlement is preferred by retail investors as it allows market participants to hedge their exposure for the full week. A.M.-settled options by contrast are based on opening prices on the day of expiration and therefore stop trading on the day prior, leaving residual risk on the day of expiration. Feedback from Members that handle retail order flow has indicated that P.M.-settlement is needed to garner retail investor support for this product. In this regard, the Exchange notes that there is ample precedent for P.M.-settlement of broad-based index options as described in various P.M.-settled pilot filings.[9] In addition, Cboe offers P.M.-settled index options based on both the Standard & Poor's 500 index

[3] *See* Options 4A, Section 12(e)(II).

[4] In addition to the current Nasdaq-100 Index value, Nasdaq will disseminate an Index value for XND that is 1/00 of the value of the Nasdaq-100 Index.

[5] Nasdaq is an affiliate of the Exchange.

[6] The Nasdaq-100 Index is a broad-based index, as defined in Options 4A, Section 3.

[7] A description of the Nasdaq-100 Index is available on Nasdaq's website at *https://indexes.nasdaqomx.com/docs/methodology_NDX.pdf.*

[8] *See* ISE Options 4A, Section 12(a)(6). NQX is P.M.-settled and a European-style and cash-settled, with a contract multiplier of 100.

[9] *See* Securities Exchange Act Release Nos. 85030 (February 1, 2019), 84 FR 2633 (February 7, 2019) (SR–ISE–2019–01); 85672 (April 17, 2019), 84 FR 16899 (April 23, 2019) (SR–ISE–2019–11); 87380 (October 22, 2019), 84 FR 57786 (October 28, 2019) (SR–ISE–2019–28); and 88681 (April 17, 2020), 85 FR 22775 (April 23, 2020) (SR–ISE–2020–17). *See also* Securities Exchange Act Release Nos. 84835 (December 17, 2018), 83 FR 65773 (December 21, 2018) (SR–Phlx–2018–80); 85669 (April 17, 2019), 84 FR 16913 (April 23, 2019) (SR–Phlx–2019–13); 87381 (October 22, 2019), 84 FR 57788 (October 28, 2019) (SR–Phlx–2019–43); and 88684 (April 17, 2020), 85 FR 22781 (April 23, 2020) (SR–Phlx–2020–24).

(''SPXW''),[10] and the Quarterly Russell 2000 Index *Options* [sic] (''RUTW'').

Pursuant to Phlx Options 4A, Section 12(b)(5), XND would become part of the Nonstandard Expirations Pilot Program. Pursuant to the provisions of this pilot which currently is set to expire on May 4, 2021, the Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Weekly Expirations shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that Weekly Expirations shall be P.M.-settled and new series in Weekly Expirations may be added up to and including on the expiration date for an expiring Weekly Expiration. Further, the Exchange may open for trading EOMs on any broad-based index eligible for standard options trading to expire on last trading day of the month. EOMs shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that EOMs shall be P.M.-settled and new series in EOMs may be added up to and including on the expiration date for an expiring EOM.[11]

The Exchange does not believe that the introduction of a new P.M.-settled Nasdaq-100 Index contract will cause any market disruptions. The Exchange will monitor for any disruptions caused by P.M.-settlement of the proposed XND options contract or the development of any factors that could cause such disruptions. P.M.-settled options predominate in the over-the-counter (''OTC'') market, and the Exchange is not aware of any adverse effects in the OTC market attributable to the P.M.-settlement feature. The Exchange is merely proposing to offer a P.M.-settled product in an exchange environment, which offers the additional benefits of added transparency, price discovery, and stability.

III. Trading Hours, Minimum Increments, Expirations and Strike Prices

XND options will be available for trading during the Exchange's standard trading hours for index options, *i.e.,* from 9:30 a.m. to 4:15 p.m. New York time.[12]

XND options will trade with a minimum trading increment of $0.01 for options for all other series.[13] Today, Cboe lists a reduced-value contract on the S&P 500 Index in the form of XSP options with minimum increments of $0.01 for all option series, regardless of price.[14] The minimum increments for bids and offers for SPDR options (''SPY''), an exchange-traded fund that also tracks the performance of 1/10th the value of the S&P 500 Index, is $0.01, regardless of whether the options series is quoted above, at, or below $3. Cboe noted in their Approval Filing for XSP that since the prices of both XSP options and SPY options are based, in a similar manner, on 1/10th the size of the S&P 500 Index, CBOE proposes to amend Interpretation and Policy .03 to Rule 6.42 to state that for so long as SPY options participate in the Penny Pilot program (now Penny Interval Program), the minimum increments for XSP options shall be the same as SPY for all options series (including LEAPS). Likewise, XND options are similar in size to the INVESCO QQQ Trust™, Series 1 (''QQQ''),[15] which is the ETF on the Nasdaq-100 Index (roughly 1/40th of the Nasdaq-100 Index). Phlx proposes to adopt a new Supplementary Material .03 to Options 3, Section 3 to state that for so long as QQQ options participate in the Penny Interval Program, the minimum increments for XND options shall be the same as QQQ for all options series (including LEAPS), which shall be $0.01 for options for all other series. The Exchange also proposes to renumber current Supplementary Material .03 to Options 3, Section 3 as .04.

The Exchange proposes that XND options will have monthly expiration dates on the third Friday of each month (*i.e.,* Expiration Friday), and the

[10] *See* Securities Exchange Act Release No. 80060 (February 17, 2017), 82 FR 11673 (February 24, 2017) (SR–CBOE–2016–091) (Approval Order).

[11] XND is a broad-based index. Options 4A, Section 12(b)(5) provides,

Nonstandard Expirations Pilot Program

(A) Weekly Expirations. The Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Weekly Expirations shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that Weekly Expirations shall be P.M.-settled and new series in Weekly Expirations may be added up to and including on the expiration date for an expiring Weekly Expiration.

The maximum number of expirations that may be listed for each Weekly Expiration (*i.e.,* a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) in a given class is the maximum number of expirations permitted for standard index options in Options 4A, Section 12(a)(4). Weekly Expirations need not be for consecutive Monday, Wednesday, or Friday expirations as applicable; however, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. Weekly Expirations that are initially listed in a given class may expire up to four weeks from the actual listing date. If the last trading day of a month is a Monday, Wednesday, or Friday and the Exchange lists EOMs and Weekly Expirations as applicable in a given class, the Exchange will list an EOM instead of a Weekly Expiration in the given class. Other expirations in the same class are not counted as part of the maximum number of Weekly Expirations for a broad-based index class. If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.

(B) End of Month (''EOM'') Expirations. The Exchange may open for trading EOMs on any broad-based index eligible for standard options trading to expire on last trading day of the month. EOMs shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that EOMs shall be P.M.-settled and new series in EOMs may be added up to and including on the expiration date for an expiring EOM.

The maximum number of expirations that may be listed for EOMs in a given class is the same as the maximum number of expirations permitted for standard options on the same broad-based index. EOM expirations need not be for consecutive end of month expirations; however, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. EOMs that are first listed in a given class may expire up to four weeks from the actual listing date. Other expirations in the same class are not counted as part of the maximum numbers of EOM expirations for a broad-based index class.

(C) Duration of Nonstandard Expirations Pilot Program. The Nonstandard Expirations Pilot Program shall be through May 4, 2021.

(D) Weekly Expirations and EOM Trading Hours. Transactions in Weekly Expirations and EOMs may be effected on the Exchange between the hours of 9:30 a.m. (Eastern Time) and 4:15 p.m. (Eastern Time), except that on the last trading day, transactions in expiring Weekly Expirations and EOMs may be effected on the Exchange between the hours of 9:30 a.m. (Eastern time) and 4:00 p.m. (Eastern time).

[12] *See* Options 4A, Section 12(b)(5)(D).

[13] These increments differ from the minimum increments within Phlx Options 3, Section 3(a), which provides, ''Except as provided in Supplementary Material to Options 3, Section 3 below, all options on stocks, index options, and Exchange Traded Fund Shares trading at a price of $3.00 or higher shall have a minimum increment of $.10, and all options on stocks and index options trading at a price under $3.00 shall have a minimum increment of $.05.'' While XND options have a minimum increment of a penny, these options are not within the Penny Interval Program.

[14] *See* Securities Exchange Act Release No. 70087 (August 6, 2013), 78 FR 47809 (July 31, 2013) (SR–Cboe–2013–055) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade a P.M.-settled Mini-SPX Index Option Product) (''Approval Filing for XSP'').

[15] QQQ is an exchange-traded fund based on the Nasdaq-100 Index.

Exchange proposes to list XND options in expiration months consistent with those of other index option products available on the Exchange.[16] In addition, the Exchange may list long term index options series (''LEAPS'') that expire from twelve (12) to sixty (60) months from the date of issuance.[17] XND options would also be eligible to be added to the Short Term Option Series Program (''Weeklies'') and/or Quarterly Options Series Program (''Quarterlies'') if designated by the Exchange pursuant to Options 4A, Section 12(b)(4) and (b)(3), respectively.[18]

Further, the Exchange proposes to permit XND options to be listed and traded in accordance with the Nonstandard Expirations Pilot Program. This would permit the Exchange to open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an End of Month (''EOM'') expiration). Weekly Expirations would be subject to all provisions of Options 4A, Section 12 and would be treated the same as options on the same underlying index that expire on the third Friday of the expiration month. New series in Weekly Expirations could be added up to and including on the expiration date for an expiring Weekly Expiration. The maximum number of expirations that could be listed for each Weekly Expiration (*i.e.,* a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) in a given class would be the same as the maximum number of expirations permitted for standard options on the same broad-based index.[19] Further, the Exchange could open for trading EOMs on any broad-based index eligible for standard options trading to expire on last trading day of the month. EOMs would be subject to all provisions of Options 4A, Section 12 and treated the same as options on the same underlying index that expire on the third Friday of the expiration month. However, the EOMs would be P.M.-settled and new series in EOMs could be added up to and including on the expiration date for an expiring EOM.[20]

Generally, pursuant to Options 4A, Section 12(a)(2), except as provided in Supplementary Material .04 to Options 4A, Section 12,[21] the exercise (strike) price intervals will be no less than $5, provided that the Exchange may determine to list strike prices at no less than $2.50 intervals for options on the following indexes (which may also be known as sector indexes). The Exchange proposes to amend Options 4A, Section 12(a)(2) to add XND options to the list of classes where strike price intervals of no less than $2.50 are generally permitted and note, ''if the strike price is less than $200.'' The Exchange proposes to adopt the same strike price intervals for XND options as currently approved for Reduced Value Nasdaq 100 Options within Supplementary Material .02 to Options 4A, Section 12. Thus, notwithstanding Options 4A, Section 12(a)(2), the interval between strike prices of series of XND options will be $1 or greater, subject to the conditions described in Supplementary Material .02 to Options 4A, Section 12. The Exchange will not list LEAPS on XND options at intervals less than $5. If the Exchange determines to add XND options to the Weeklies or Quarterlies programs such options will be listed with expirations and strike prices described in Supplementary Material .02 to Options 4A, Section 12.

IV. Position and Exercise Limits; Margin

As with NDX, in determining compliance with Options 4A, Section 6, Position Limits, there will be no position limits for broad-based index option contracts in the XND class.[22] Although there will be no position limits for XND options, the Exchange proposes to amend Options 4A, Section 6 to include XND. Options 4A, Section 6(e) provides,

Full value, reduced value, long term and quarterly expiring options based on the same index shall be aggregated. Reduced value or mini-size contracts shall be aggregated with full value or full-size contracts and counted by the amount by which they equal a full value contract (*e.g.,* ten (10) one tenth (1/10th) value contracts equal one (1) full value contract). Positions in Short Term Options Series and Quarterly Options Series shall be aggregated with positions in options contracts of the same index. Nonstandard Expirations (as provided for in Options 4A, Section 5(b)(vii)) on a broad-based index shall be aggregated with option contracts on the same broad-based index and shall be subject to the overall position limit.

Since the Exchange is proposing to list a micro index contract that is based on 1/100 of the value of the Nasdaq-100 Index, Options 4A, Section 6(e) would apply. In addition, as with NDX, there would be no exercise limits for XND.[23] Finally, the Exchange proposes to apply broad-based index margin requirements for the purchase and sale of XND options that are the same as margin requirements currently in place for NDX options.

V. Other Amendments

The Exchange proposes to add a new Options 4A, Section 12(a)(5) titled ''European-Style Exercise'' similar to ISE Rules at Options 4A, Section 12(a)(4). The rule would provide,

[16] Options 4A, Section 12(a)(4) currently provides that the Exchange may list: (i) Up to six (6) standard monthly expirations at any one time in a class, but will not list index options that expire more than twelve (12) months out; (ii) up to 12 standard monthly expirations at any one time for any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index; and (iii) up to 12 standard (monthly) expirations in NDX options.

[17] *See* Options 4A, Section 12(b)(2).

[18] The Exchange expects that it will add XND options to the Weeklies program.

[19] Weekly Expirations would not need to be for consecutive Monday, Wednesday, or Friday expirations as applicable. However, the expiration date of a non-consecutive expiration would not be permitted beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. Weekly Expirations that are first listed in a given class could expire up to four weeks from the actual listing date. If the last trading day of a month were a Monday, Wednesday, or Friday and the Exchange were to list EOMs and Weekly Expirations as applicable in a given class, the Exchange would list an EOM instead of a Weekly Expiration in the given class. Other expirations in the same class would not be counted as part of the maximum number of Weekly Expirations for a broad-based index class. If the Exchange were not open for business on a respective Monday, the normally Monday expiring Weekly Expirations would expire on the following business day. If the Exchange were not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations would expire on the previous business day. *See* Options 4A, Section 12(b)(5)(A).

[20] The maximum number of expirations that could be listed for EOMs in a given class would be the same as the maximum number of expirations permitted for standard options on the same broad-based index. EOM expirations would not need to be for consecutive end of month expirations. However, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. EOMs that are first listed in a given class could expire up to four weeks from the actual listing date. Other expirations would not be counted as part of the maximum numbers of EOM expirations for a broad-based index class. *See* Options 4A, Section 12(b)(5)(B).

[21] Supplementary Material .04 to Options 4A, Section 12 provides, ''Supplementary Notwithstanding subsection (a) to this Options 4A, Section 12, the interval between strike prices of series of Alpha Index options will be $1 or greater. The Exchange will list at least two strike prices above and two strike prices below the current value of each Alpha Index option at about the time a series is opened for trading on the Exchange. The Exchange may also list additional strike prices at any price point, with a minimum of a $1.00 interval between strike prices, as required to meet the needs of customers.''

[22] The Exchange is amending Options 4A, Section 6(a)(ii) to reflect this proposed change.

[23] *See* Options 4A, Section 10 which provides that exercise limits for index options contracts shall be equivalent to the position limits described in Options 4A, Section 6.

''*European-Style Exercise.*'' The following European-style index options, some of which may be A.M.-settled as provided in subparagraph (e), are approved for trading on the Exchange:

(i) Full-size Nasdaq 100 Index; and

(ii) Nasdaq 100 Micro Index Options.

The addition of this rule text will bring greater clarity to the Exchange's rules regarding which index options will trade European-Style Exercise.

The Exchange also proposes to add rule text within Options 4A, Section 12(b)(2) which describes LEAPS. This rule text is similar to rule text within ISE Options 4A, Section 12(b). The Exchange proposes to provide,

(i) Index long-term options series may be based on either the full or micro index value of the underlying index. There may be up to ten (10) expiration months, none further out than sixty (60) months. Strike price interval, bid/ask differential and continuity rules shall not apply to such options series until the time to expiration is less than twelve (12) months.

(ii) When a new index long-term options series is listed, such series will be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first. No quotations will be posted for such options series until they are opened for trading.

(iii) *Micro Index Long Term Options Series.* Micro index Long Term Options Series on the following stock indices are approved for trading on the Exchange:

(A) Nasdaq 100 Index

(1) Expiration Months. Micro index long term options series may expire at six-month intervals. When a new expiration month is listed, series may be near or bracketing the current index value. Additional series may be added when the value of the underlying index increases or decreases by ten (10) to fifteen (15) percent.

Similar to ISE, the Exchange proposes to provide within the rule text that Index LEAPS may be based on either the full or micro index value of the underlying index.[24] The Exchange proposes to permit up to ten (10) expiration months, however not further out than sixty (60) months, similar to ISE. Finally, the Exchange proposes to state that strike price interval, bid/ask differential and continuity rules shall not apply to such options series until the time to expiration is less than twelve (12) months, similar to ISE.

With respect to new index LEAPS, the Exchange proposes to permit such series to be opened for trading either when there is buying or selling interest, or forty (40) minutes prior to the close, whichever occurs first, similar to ISE. Also, similar to ISE, no quotations will be posted for such options series until they are opened for trading.

Finally, the Exchange proposes to note the expiration months for Micro index LEAPS. Micro index LEAPS may expire at six-month intervals. When a new expiration month is listed, series may be near or bracketing the current index value. Additional series may be added when the value of the underlying index increases or decreases by ten (10) to fifteen (15) percent. These proposed changes are similar to ISE.

VI. Surveillance and Capacity

The Exchange represents that it has sufficient capacity to handle additional quotations and message traffic associated with the proposed listing and trading of XND options. Further, the Exchange has analyzed its capacity and represents that it believes the Exchange and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any additional traffic associated with the listing of the maximum number nonstandard expirations permitted pursuant to Options 4A, Section 12(b)(5).

Index options are integrated into the Exchange's existing surveillance system architecture and are thus subject to the relevant surveillance processes. The Exchange represents that it has adequate surveillance procedures to monitor trading in XND options thereby aiding in the maintenance of a fair and orderly market.

The Exchange notes that it is amending Options 4A, Section 12 to include the Nasdaq 100 Micro Index Options within the Rule to conform to the amendments proposes herein.

VII. Pilot Program Reports

The Exchange proposes to list and trade XND options on a pilot basis for a pilot period expiring on May 4, 2021 (''Pilot Program''). If the Exchange were to propose an extension of the program or should the Exchange propose to make the program permanent, then the Exchange would submit a filing proposing such amendments to the program. The Exchange notes that any positions established under the pilot would not be impacted by the expiration of the pilot. For example, a position in an XND options series that expires beyond the conclusion of the pilot period could be established during the pilot. If the Pilot Program were not extended, then the position could continue to exist. However, the Exchange notes that any further trading in the series would be restricted to transactions where at least one side of the trade is a closing transaction.

The Exchange proposes to submit a Pilot Program report to the Commission at least two months prior to the expiration date of the Pilot Program (the ''annual report''). The annual report would contain an analysis of volume, open interest, and trading patterns. The analysis would examine trading in the proposed option product as well as trading in the securities that comprise the Nasdaq-100. In addition, for series that exceed certain minimum open interest parameters, the annual report would provide analysis of index price volatility and share trading activity. In addition to the annual report, the Exchange would provide the Commission with periodic interim reports while the pilot is in effect that would contain some, but not all, of the information contained in the annual report. The annual report would be provided to the Commission on a confidential basis. The annual report would contain the following volume and open interest data:[25]

(1) Monthly volume aggregated for all trades;

(2) monthly volume aggregated by expiration date;

(3) monthly volume for each individual series;

(4) month-end open interest aggregated for all series;

(5) month-end open interest for all series aggregated by expiration date; and

(6) month-end open interest for each individual series.

In addition to the annual report, the Exchange would provide the Commission with interim reports of the information listed in Items (1) through (6) above periodically as required by the Commission while the pilot is in effect. These interim reports would also be provided on a confidential basis.

Finally, the annual report would contain the following analysis of trading patterns in Expiration Friday, P.M.-settled XND option series in the pilot: (1) A time series analysis of open interest; and (2) an analysis of the distribution of trade sizes. Also, for series that exceed certain minimum parameters, the annual report would contain the following analysis related to index price changes and underlying share trading volume at the close on Expiration Fridays: a comparison of index price changes at the close of trading on a given Expiration Friday

[24] ISE Rules do not reference a micro index product but rather a reduced value index.

[25] Based on the data elements to be provided to the Commission for the NDXPM pilot. *See* supra note 7.

with comparable price changes from a control sample. The data would include a calculation of percentage price changes for various time intervals and compare that information to the respective control sample. The Exchange would provide a calculation of share volume for a sample set of the component securities representing an upper limit on share trading that could be attributable to expiring in-the-money series. Raw percentage price change data as well as percentage price change data normalized for prevailing market volatility, as measured by an appropriate index as agreed by the Commission and the Exchange, would be provided. The data would include a comparison of the calculated share volume for securities in the sample set to the average daily trading volumes of those securities over a sample period. The minimum open interest parameters, control sample, time intervals, method for randomly selecting the component securities, and sample periods would be determined by the Exchange and the Commission.

The Exchange proposes to add rule text at Options 4A, Section 12(a)(6) which provides, ''In addition to A.M.-settled Nasdaq-100 Index options approved for trading on the Exchange pursuant to Options 4A, Section 12(a)(5), the Exchange may also list options on the Nasdaq 100 Micro Index Options (''XND'') whose exercise settlement value is derived from closing prices on the expiration day (''P.M.-settled''). XND options will be listed for trading for a pilot period expiring on May 4, 2021.''

Implementation

The Exchange intends to begin implementation of the proposed rule change in Q1 2021. The Exchange will issue an Options Trader Alert to Participants with the date of implementation.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[26] in general, and furthers the objectives of Section 6(b)(5) of the Act,[27] 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. Specifically, the Exchange believes that the listing and trading of a micro index P.M.-settled index option contract based on the Nasdaq-100 Index will attract order flow to the Exchange, increase the variety of listed options, and provide a valuable hedge tool to retail and other investors.

The Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Specifically, the Exchange believes that XND options would provide additional opportunities for market participants to trade and hedge exposure to the Nasdaq-100 Index. The proposed XND options product is similar to NDX options that are currently listed and traded on the Exchange with two important differences: (1) XND options will be based on 1/100 the value of the Nasdaq-100 Index, and (2) XND options will be P.M.-settled. These differences are based on the Exchanges experience listing NDX options, and are designed to attract additional participation from retail and other investors. Based on feedback received from members, the Exchange believes that the proposed contract specifications will be attractive to market participants, and will remove impediments to and perfect the mechanism of a free and open market and a national market system. The nonstandard expirations would expand the ability of investors to hedge risks against market movements stemming from economic releases or market events that occur during the month and at the end of the month. Accordingly, the Exchange believes that weekly expirations and EOMs should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to more closely tailor their investment objectives.

Currently, the Exchange believes that there continues to be unmet market demand for exchange-listed index options on the Nasdaq-100 Index. This unmet demand stems in part from the high value of the Nasdaq-100 Index and the consequently higher cost of purchasing NDX options. As noted above, the value of the Nasdaq-100 was 12,112.11 as of the opening of trading on November 25, 2020, and this high value has made it more difficult for retail and other investors to comfortably purchase options on the index. The Exchange believes that a micro index option would allow additional participation from these investors. Specifically, the Exchange believes that basing the contract on a micro value of the Nasdaq-100 Index will encourage additional participation by retail and other investors due to the reduced capital outlay needed to trade these options. The ISE NQX product has attracted retail trading volume to a certain point given that the NQX product represents ⅕ the value of the Nasdaq-100 Index. The Exchange believes that XND options, which represent 1/100 of the Nasdaq-100 Index, may strike a more appropriate balance for other retail investors with its reduced size. This value is more similar to other competitive index option products.

Furthermore, based on member feedback, the Exchange believes that providing P.M.-settlement will make this product more attractive to market participants and help garner additional support for this new index options product. Specifically, the Exchange believes that P.M.-settlement will be attractive to retail and other investors that want to use these options to hedge an entire week of risk without leaving residual risk on the day of expiration, and without having to actively manage these positions, for example, by rolling their hedge into the next expiration. For this reason, other popular index option products have been transitioning to P.M.-settlement. For example, due to market demand for P.M.-settlement, Cboe Exchange, Inc. (''Cboe'') transitioned its heavily traded SPX index options to P.M.-settlement, and removed related A.M.-settled products.[28] The Exchange believes that market participants similarly desire P.M.-settlement for index options on the Nasdaq-100 Index, and proposes to offer such a product so that it can compete effectively with similar index option products offered by options markets such as Cboe which offers SPXW and OEX.

When cash-settled index options were first introduced in the 1980s, they generally utilized closing-price settlement procedures (*i.e.,* P.M.-settlement). Due to concerns raised by the Commission on the impact of P.M.-settlement on market volatility and the operation of fair and orderly markets on the underlying cash market at or near the close of trading on expiration day, however, exchanges moved to A.M.-settlement for these products. As discussed in the recent approval of the NDXP product,[29] however, the Commission has recognized that these risks may be mitigated today by the enhanced closing procedures that are now employed by the primary equity markets. The Exchange believes that the concerns that led to the transition to a.m.-settlement for index derivatives have been largely mitigated today. Opening procedures in the 1990s were

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

[28] *See* Cboe Regulatory Circular RG10–112.

[29] *See* supra note 9.

deemed acceptable to mitigate one-sided order flow driven by index option expiration. Nasdaq now has an automated closing cross that that facilitates orderly closings by aggregating a large pool of liquidity, across a variety of order types, in a single venue. The Exchange believes that Nasdaq's closing procedures are well-equipped to mitigate imbalance pressure at the close. Furthermore, the Exchange believes that the proposal is designed to mitigate any potential concerns regarding P.M. settlement. Specifically, the Exchange believes that the proposal will provide additional trading and hedging opportunities for investors.

XND options will be subject to the same rules that presently govern the trading of index options based on the Nasdaq-100 Index, including sales practice rules, margin requirements, trading rules, and position and exercise limits. The Exchange therefore believes that the rules applicable to trading in XND options are consistent with the protection of investors and the public interest. Furthermore, the Exchange represents that it has sufficient systems capacity and adequate surveillance procedures to handle trading in XND options.

With respect to the Exchange's proposal to adopt new Supplementary Material .03 to Options 3, Section 3 to provide that minimum increments for bids and offers for XND options be the same as those for QQQ, regardless of the value at which the option series is quoted, may promote competition and benefit investors. This proposal aligns the minimum increments for XND options with those for QQQ options in order to allow market participants to quote in minimum increments of $0.01 is consistent with the Act because allowing participants to quote in smaller increments may provide the opportunity for reduced spreads, thereby lowering costs to investors. In addition, because both XND and QQQ are based on Nasdaq-100 Index it would be reasonable for the minimum increments of bids and offers to be the same for both types of options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. XND options would be available for trading to all market participants. The proposed rule change will facilitate the listing and trading of a new option product that will enhance competition among market participants, to the benefit of investors and the marketplace. The listing of XND will enhance competition by providing investors with an additional investment vehicle, in a fully-electronic trading environment, through which investors can gain and hedge exposure to the Nasdaq-100 Index. Furthermore, this product could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure. Finally, it is possible for other exchanges to develop or license the use of a new or different index to compete with the Nasdaq-100 Index and seek Commission approval to list and trade options on such an index.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2021–07 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–2021–07. 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–Phlx–2021–07, and should be submitted on or before March 19, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03949 Filed 2–25–21; 8:45 am]

BILLING CODE 8011–01–P

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–34199]

Commission Statement on Insurance Product Fund Substitution Applications

February 23, 2021.

AGENCY: Securities and Exchange Commission.

ACTION: Commission statement.

The Commission is issuing a statement regarding applications for orders approving the substitution of certain securities pursuant to section 26(c) of the Investment Company Act of 1940, as amended, (the ''Act'') (and

related orders of exemption pursuant to section 17(b) of the Act from section 17(a) of the Act). The statement sets forth the Commission's position that the substitution by an insurance company of registered open-end investment companies used as investment options for variable life insurance policies or variable annuity contracts will not provide a basis for enforcement action under section 26(c) of the Act (and section 17(a) of the Act for in-kind substitutions) if the insurance company does not obtain an order under section 26(c) (and section 17(b)) so long as the terms and conditions of the proposed substitution are substantially similar to those approved by a prior order for a substitution under section 26(c) (and section 17(b)) obtained by the insurance company since January 1, 2004.

DATES: The Commission's statement is effective upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jennifer O. Palmer, Senior Counsel, David J. Marcinkus, Branch Chief, Nadya B. Roytblat, Assistant Chief Counsel, or Daniele Marchesani, Assistant Chief Counsel, at (202) 551–6825 (Chief Counsel's Office, Division of Investment Management).

SUPPLEMENTARY INFORMATION: Variable insurance contracts (variable annuities and variable life insurance policies) are issued by insurance companies and typically have a two-tier structure. The top tier is a separate account of the insurance company, registered under the Act as a unit investment trust (''UIT''). The separate account, in turn, has subaccounts that invest in numerous (sometimes hundreds of) underlying mutual funds (open-end investment companies registered under the Act) and exchange-traded funds (collectively, ''Investment Options''). Contract holders typically allocate their assets across these various Investment Options available through the separate account. Under the contracts, the insurance company typically reserves the right, subject to compliance with applicable laws, to substitute Investment Options with other Investment Options after appropriate notice. The contracts also typically permit the insurance company to limit the manner in which a contract owner may allocate purchase payments to the subaccounts that invest in an Investment Option.[1] Insurance companies have offered separate account UITs with numerous Investment Options with the expectation and understanding that they would have the ability to make changes among the Investment Options in appropriate circumstances.

Section 26(c) of the Act prohibits a depositor or trustee of a UIT that invests in the securities of a single issuer from substituting the securities of another issuer without the approval of the Commission.[2] Section 26(c) provides that such approval shall be granted by order of the Commission if the evidence establishes that the substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Congress' concern underlying section 26(c) related to the lack of recourse and potentially additional fees experienced by investors in a single-security UIT in the case of a substitution.[3] Legislative history suggests that when Congress enacted the substitution order requirement in section 26(c) in 1970, it intended to limit the requirement to those UITs whose investors' economic exposure was limited to the single underlying security being substituted.[4]

In the past four decades, nearly 200 substitution applications under section 26(c) by insurance companies sponsoring variable annuity and variable life insurance products that offer multiple Investment Options have been approved by the Commission.[5] In so doing, the Commission has come to require terms and conditions that focus on key investor protections designed to address the concerns expressed in the legislative history of Section 26(c). These conditions include, among others, disclosure notifying affected contract owners at least 30 days in advance of the substitution; a requirement that each substitute fund have substantially similar investment objectives, principal investment strategies, and principal risks to the fund it is replacing; and a cap on total operating expenses of the substitute fund, such that they will not exceed those of the fund it is replacing for at least two years. The terms and conditions of substitution applications approved by the Commission under section 26(c) have been substantially similar to one another for at least the past 17 years.[6]

[1] In addition to registering with the Commission as an investment company under the Act, each separate account registers its securities under the Securities Act of 1933. In doing so, each separate account files a registration statement with the Commission that includes a prospectus describing the Contracts offered by the separate account and a copy of the form of such contracts.

[2] Section 26(c) states: ''It shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. The Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title.'' 15 U.S.C. 80a–26(c).

[3] In amending section 26 to require Commission approval of substitutions, Congress stated: ''The proposed amendment recognizes that in the case of the unit investment trust holding the securities of a single issuer notification to shareholders does not provide adequate protection since the only relief available to shareholders, if dissatisfied, would be to redeem their shares. A shareholder who redeems and reinvests the proceeds in another unit investment trust or in an open-end company would under most circumstances be subject to a new sales load. The proposed amendment would close this gap in shareholder protection by providing for [Commission] approval of the substitution. The [Commission] would be required to issue an order approving the substitution if it finds the substitution consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.'' S. Rep. No. 184, 91st Cong., 1st Sess. 41 (1969), reprinted in 1970 U.S.C.C.A.N. 4897, 4936 (''Senate Report'').

[4] In 1966, the Commission recommended requiring Commission approval for any proposed substitution, regardless of the number of underlying issuers. *See* Report of the Securities and Exchange Commission on the Public Policy Implications of Investment Company Growth, H.R. Rep. No. 2337, 89th Cong. 2d Sess. 337 (1966) (stating ''the Commission recommends that section 26 be amended to require that proposed substitutions may not occur without Commission approval''). Congress, however, amended section 26 with reference to single-security UITs only. At the time Congress enacted section 26(c), most UITs invested all of their assets in a single security and issued ''periodic payment plan certificates,'' which in return for fixed monthly payments over a period of years provided the purchaser with an interest in, but not direct ownership of, an underlying investment company's shares. These single-security UITs ''serve[d] merely as a mechanism for buying investment company shares on an installment payment basis.'' *Id.* at 38. Although UITs holding a variety of securities were popular in the early 1930s, by the time section 26(c) was enacted, their importance had dwindled. Both types of UITs seldom made changes to their underlying securities and were viewed as fixed portfolios. *See id.* at 38. In 1982, in response to a commenter, the Commission stated in a release that it had determined not to reexamine at that time its position that section 26(c) of the Act requires Commission approval for a substitution of securities in any subaccount of a registered separate account. *See* Inv. Co. Act Rel. No. 12678 (Sep. 21, 1982) at 5.

[5] A number of such orders also included relief pursuant to section 17(b) of the Act from section 17(a)(1) and (2) of the Act to the extent necessary to permit the substitutions to be carried out by redeeming shares issued by each target fund in-kind and using the securities distributed as redemption proceeds to purchase shares issued by the applicable destination funds, at the respective net asset values of the funds. Section 17(a)(1) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, knowingly from selling any security or other property to such registered investment company. Section 17(a)(2) of the Act, in relevant part, prohibits any affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, knowingly from purchasing any security or other property from such registered investment company. ''Affiliated person'' is defined in section 2(a)(3) of the Act.

[6] Pursuant to the Congressional Review Act, the Office of Information and Regulatory Affairs has

Commission Statement

Based on the Commission's administrative experience with substitution orders, we are stating our position that the substitution by an insurance company of registered open-end investment companies used as Investment Options for variable life insurance policies or variable annuity contracts will not provide a basis for an enforcement action if the insurance company does not obtain an order from the Commission under section 26(c) (and section 17(b) for certain substitutions) so long as the terms and conditions of the proposed substitution are substantially similar to those approved by a prior order for a substitution pursuant to section 26(c) obtained by the insurance company since January 1, 2004.[7]

When making the sort of substitution discussed in this Commission statement, the insurance company should submit correspondence accompanying its disclosure of the upcoming substitution made via a prospectus supplement filed with the Commission pursuant to Rule 497 under the 1933 Act. Such correspondence should: (1) Indicate that the substitution is of the type discussed in this Commission statement; (2) identify the prior order with terms and conditions substantially similar to those in the substitution; (3) confirm that the substitution is consistent with the terms and conditions of the identified prior order; and (4) explain why each existing fund and corresponding replacement fund are substantially similar, including a comparison of the investment objectives, strategies and risks of each existing fund and its corresponding replacement fund.

Any insurance company that has not obtained an order under section 26(c) for a substitution since January 1, 2004 will need to apply for one, and any insurance company that prefers to receive such an order is able to continue to apply for one.[8] We believe that this approach would continue to preserve the investor protections that have been afforded as part of the review of substitutions under section 26(c), while allowing for a more efficient process of substitutions in the variable insurance products context. We also believe that this approach would lessen the regulatory burden associated with insurance company substitutions, while remaining consistent with previous Substitution Orders that were designed to address the concerns reflected in the legislative history of section 26(c) of the Act.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03989 Filed 2–25–21; 8:45 am]

BILLING CODE 8011–01–P

designated this policy statement as not a ''major rule,'' as defined by 5 U.S.C. 804(2). See 5 U.S.C. 801 *et seq.*

[7] Our position also extends to any related relief under section 17(b) of the Act from section 17(a) that the insurance company might have received to conduct the substitutions in-kind.

[8] An insurance company that has not obtained such an order since January 1, 2004, but may have acquired another insurance company that did, may not rely on the acquiree's order under the Commission's position; an insurance company that had obtained such an order and also may have acquired another insurance company that also had obtained such an order, must look exclusively to the terms and conditions of the acquiror's order for purposes of the Commission's position.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34198; 812–15205]

Infinity Q Diversified Alpha Fund, a Series of Trust for Advised Portfolios, and Infinity Q Capital Management, LLC; Notice of Application and Temporary Order

February 22, 2021.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application and a temporary order under Section 22(e)(3) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicants request a temporary order to permit Infinity Q Diversified Alpha Fund (the ''Fund''), a series of Trust for Advised Portfolios (the ''Trust''), to suspend the right of redemption of its outstanding redeemable securities.

APPLICANTS: The Trust, on behalf of the Fund, and Infinity Q Capital Management LLC, the Fund's investment adviser (''Infinity Q'' and together with the Trust, the ''Applicants'').

FILING DATE: The application was filed on February 22, 2021.

HEARING OR NOTIFICATION OF HEARING: Interested persons may request a hearing by writing to the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 19, 2021, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, *Secretarys-Office@sec.gov.* Applicants: Trust, on behalf of the Fund, c/o U.S. Bank Global Fund Services, P.O. Box 701, Milwaukee, Wisconsin 53201–0701, with copies to Christopher D. Menconi, Esq., Ivan P. Harris, Esq., Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue NW, Washington, DC 20004; Infinity Q, 888 Seventh Avenue, Suite 3700, New York, NY 10106, with copies to Alexander J. Willscher, Esq., Frederick Wertheim, Esq., Sullivan & Cromwell LLP, 125 Broad Street, New York, NY 10004.

FOR FURTHER INFORMATION CONTACT: Daniel T. Gallagher, Attorney-Adviser, Jennifer L. Sawin, Senior Counsel, or Janet M. Grossnickle, Assistant Director, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Background

1. The Trust is registered under the Act as an open-end series management investment company. Infinity Q is the investment adviser to the Fund, a series of the Trust. Infinity Q is registered as an investment adviser under the Investment Advisers Act of 1940. Infinity Q valued its assets under management as of January 31, 2021, at approximately $3.0 billion, of which approximately $1.8 billion was attributable to the Fund. The Fund is a ''commodity pool'' under the U.S. Commodity Exchange Act, and Infinity Q is a ''commodity pool operator'' registered with and regulated by the Commodity Futures Trading Commission.

2. Applicants state that the request for relief arises from Infinity Q's inability, as required under the Fund's valuation procedures, to value certain Fund holdings and the Fund's resulting inability to calculate net asset value (''NAV''). According to Applicants, the Fund's current portfolio includes swap instruments (the ''Swaps'') for which

Infinity Q calculates fair value using models provided by a third-party pricing vendor. Applicants state that as of February 18, 2021, the Fund's reported NAV was derived using a valuation for these Swaps that resulted in the value of the Swaps constituting approximately 18% of the Fund's reported NAV. Applicants state that on February 18, 2021, based on information learned by the Commission staff and shared with Infinity Q, Infinity Q informed the Fund that Infinity Q's Chief Investment Officer had been adjusting certain parameters within the third-party pricing model that affected the valuation of the Swaps. Applicants state that on February 19, 2021, Infinity Q informed the Fund that at such time it was unable to conclude that these adjustments were reasonable, and, further, that it was unable to verify that the values it had previously determined for the Swaps were reflective of fair value. Applicants state further that Infinity Q also informed the Fund that it would not be able to calculate a fair value for any of the Swaps in sufficient time to calculate an accurate NAV for at least several days.

3. Applicants represent that they have begun the effort to value these Swap positions accurately and have retained an independent valuation expert. They currently believe that this may take several days or weeks. Applicants state that Infinity Q and the Fund are also determining whether the fair values previously calculated for positions other than the Swaps are reliable, and the extent of the impact on historical valuations. According to Applicants, as a result, the Fund was unable to calculate an NAV on February 19, 2021, and it is uncertain when the Fund will be able to calculate an NAV that would enable it to satisfy requests for redemptions of Fund shares.

4. Applicants believe that the best course of action for current and former shareholders of the Fund is to liquidate the Fund in a reasonable period of time, determine the extent and impact of the historical valuation errors, and return the maximum amount of proceeds to such shareholders. Applicants represent that relief permitting the Fund to suspend redemptions and postpone the date of payment of redemption proceeds with respect to redemption orders received but not yet paid will permit the Fund to arrive at a valuation for the Swaps and any other portfolio holdings for which current and reliable market quotations are not available, and to liquidate its holdings in an orderly manner.

Relief Requested

1. Applicants request an order pursuant to Section 22(e) of the Act to suspend the right of redemption with respect to shares of the Fund effective February 19, 2021, and postpone the date of payment of redemption proceeds with respect to redemption orders received but not yet paid as of February 22, 2021, for more than seven days after the tender of securities to the Fund, until the Fund completes the liquidation of its portfolio and distributes all its assets to current and former shareholders, as described in the conditions, or until the Commission rescinds the order granted herein. Applicants believe that the relief requested is appropriate for the protection of shareholders of the Fund.

Applicants' Legal Analysis

1. Section 22(e)(1) of the Act provides that a registered investment company may not suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its designated agent except for any period during which the New York Stock Exchange (''NYSE'') is closed other than customary week-end and holiday closings, or during which trading on the NYSE is restricted.

2. Section 22(e)(3) of the Act provides that redemptions may be suspended by a registered investment company for such other periods as the Commission may by order permit for the protection of security holders of the registered investment company.

3. Applicants submit that granting the requested relief would be for the protection of the shareholders of the Fund, as provided in Section 22(e)(3) of the Act. Applicants assert that in requesting an order by the Commission, the goal of the Board of Trustees of the Trust (the ''Board'') and Infinity Q is to ensure that the Fund's current and former shareholders will be treated appropriately in view of the otherwise detrimental effect on the Fund of Infinity Q's inability to calculate a fair value for any of the Swaps and an accurate NAV for the fund. The requested relief is intended to permit an orderly liquidation of the Fund's portfolio and ensure that all of the shareholders are protected in the process.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. The Board, including a majority of the independent Trustees, will: (A) Create a plan for the orderly liquidation of Fund assets (''Asset Liquidation Plan'') and will submit the Asset Liquidation Plan to the staff of the Division of Investment Management no later than March 1, 2021; and (B) create a plan for making appropriate payments to current and former Fund shareholders (the ''Plan of Distribution''), including those whose redemption orders have been received but not paid, and will submit the Plan of Distribution to the staff of the Division of Investment Management no later than 90 days following the date of the order.[1] The Asset Liquidation Plan and the Plan of Distribution will be subject to the supervision of the Commission.

2. The Trust, on behalf of the Fund, will engage an independent third party to assist in determining the fair value of the Swaps and any other Fund holdings for which current and reliable market quotations are not readily available, including re-evaluating the historical valuations of the Fund.

3. Without the prior written approval of the Board or the Board's designee (other than Infinity Q), Infinity Q and any of its associated persons shall not direct any transactions, access assets of the Fund or make or alter any valuations of the Fund's portfolio.

4. Pending distribution, the Fund (with the prior written approval of the Board or a designee of the Board other than Infinity Q) will invest proceeds of cash dispositions of portfolio holdings solely in U.S. government securities, cash equivalents, securities eligible for purchase by a registered money market fund with legal maturities not in excess of 90 days and, if the Board determines to be necessary to protect the value of a portfolio position in a rights offering or other dilutive transaction, additional securities of the affected issuer. The Fund (with the prior written approval of the Board or a designee of the Board other than Infinity Q) may also invest cash in positions that offset existing portfolio positions or enter into other

[1] In developing the Plan of Distribution, the Board will assess the impact of errors in the calculation of the Fund's net asset value with respect to current and former shareholders and consider the importance of maintaining regulated investment company status under subchapter M of the Internal Revenue Code of 1986, as amended. For good cause shown, the Commission staff may extend any of the dates set forth in the Order. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

hedging transactions in connection with the orderly liquidation.

5. The Fund will make liquidating cash distributions solely in accordance with the Plan of Distribution.

6. The Fund and Infinity Q will make and keep true, accurate and current all appropriate records, including but not limited to those surrounding the events leading to the requested relief, the Asset Liquidation Plan, the Plan of Distribution (and distributions made pursuant thereto), the valuation and sale of Fund portfolio holdings, and communications with shareholders (including any complaints from shareholders and responses thereto).

7. The Fund and Infinity Q will promptly make available to Commission staff all files, books, records and personnel, as requested, relating to the Fund.

8. The Fund and Infinity Q will provide periodic reporting, no less frequently than weekly, to Commission staff regarding all activities carried out pursuant to the Asset Liquidation Plan and the Plan of Distribution.

9. Infinity Q, its affiliates, and its and their associated persons, will not receive any fee for managing the Fund.

10. The Fund will be in liquidation and will not be engaged and does not propose to engage in any business activities other than those necessary for the protection of its assets, the protection of current and former shareholders and the winding-down of its affairs.

11. The Fund and Infinity Q will appropriately convey accurate and timely information to current and former shareholders of the Fund with regard to the status of the Fund and its liquidation (including posting such information on the Fund's website), including, without limitation, information concerning the dates and amounts of distributions, press releases and periodic reports, and will maintain a toll-free number to respond to shareholder inquiries.

12. The Fund shall consult with Commission staff prior to making any material amendments to the Asset Liquidation Plan and the Plan of Distribution.

13. The Fund will comply with the requirements of Section 30 of the Act and the rules thereunder and will file a report containing a liquidation audit, *i.e.,* audited financial statements dated as of or near the final distribution date, promptly following the Fund's final liquidating distribution.

14. The Fund and Infinity Q will comply with all provisions of the Federal securities laws.

15. The relief granted pursuant to this application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or legal proceedings involving or against the Applicants.

Commission Finding

Based on the representations and conditions in the application, the Commission permits the temporary suspension of the right of redemption for the protection of the Fund's security holders. Under the circumstances described in the application, which require immediate action to protect the Fund's security holders, the Commission concludes that it is not practicable to give notice or an opportunity to request a hearing before issuing the order.

It is ordered, pursuant to Section 22(e)(3) of the Act, that the requested relief from Section 22(e) of the Act is granted with respect to the Fund until it has liquidated, or until the Commission rescinds the order granted herein. This order shall be in effect as of February 22, 2021, with suspension of redemption requests as requested by the Applicants to be effective as of February 19, 2021.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03966 Filed 2–25–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Cancellation

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 86 FR 10609, February 22, 2021.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, February 25, 2021 at 2:30 p.m.

CHANGES IN THE MEETING: The Closed Meeting scheduled for Thursday, February 25, 2021 at 2:30 p.m., has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: February 24, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–04120 Filed 2–24–21; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91175; File No. SR–MSRB–2021–01]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Compliance Date of Amended Form G–32

February 22, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 17, 2021 the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed rule change to extend the March 31, 2021 compliance date of previously approved amendments to Form G–32 until August 2, 2021 in order to provide brokers, dealers, and municipal securities dealers (collectively, ''dealers'') additional time to operationalize compliance with the amended form (the ''proposed rule change''). The MSRB has designated the proposed rule change as constituting a ''noncontroversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission.

The text of the proposed rule change is available on the MSRB's website at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2021-Filings.aspx,* at the MSRB'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 MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB 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 Commission approved amendments to MSRB Rule G–32, on disclosures in connection with primary offerings, in June 2019 (''Rule G–32 amendments'').[4] The Rule G–32 amendments included amendments to Form G–32 applicable to dealers acting as underwriters in the primary offering of municipal securities to collect and report new data elements through the MSRB's Electronic Municipal Market Access Dataport system (EMMA® Dataport) (''amended Form G–32'').[5] Amended Form G–32 is designed to ensure the MSRB receives information from underwriters to facilitate the MSRB's collection of market information to promote greater regulatory transparency in the municipal securities market. Underwriters are already required to input the majority of the amended Form G–32 data elements, as applicable, into the Depository Trust Company's New Issue Information Dissemination Service (''NIIDS'').[6] Along with the data elements auto-populated from NIIDS, nine of the new data elements were identified as requiring manual completion, when applicable. Pursuant to the Commission's approval of amended Form G–32, the MSRB established a November 30, 2020 compliance date for amended Form G–32.[7]

In March 2020, the United States declared a national emergency in response to the coronavirus disease (''COVID–19'') pandemic.[8] Shortly thereafter in April 2020, the Commission approved an MSRB proposed rule change filed for immediate effectiveness to provide regulatory relief to dealers and municipal advisors (collectively ''regulated entities'') in light of COVID–19 pandemic-related operational challenges and disruptions to normal business functions faced by these regulated entities.[9] In the April 2020 filing, the MSRB, among other things, provided relief to dealers by extending the compliance date for the amended Form G–32 to March 31, 2021. The MSRB also stated in the April 2020 filing that it would continue to monitor the impact of COVID–19.[10]

In October 2020, the MSRB filed a proposed rule change to clarify how dealers acting as underwriters in the primary offering of municipal securities must manually complete three of the data fields on amended Form G–32 that previously had been described as auto-populated with NIIDS data (''new Form G–32 clarifying amendment'').[11] The Commission approved the new Form G–32 clarifying amendment, with a compliance date of March 31, 2021, on December 9, 2020.[12] As a result of the new Form G–32 clarifying amendment, underwriters are on notice that there are 12, rather than nine, data fields that, when applicable, underwriters must manually complete with accurate information.

The MSRB recognizes that the impacts of the COVID–19 pandemic persist, including ongoing safety concerns and continuing operational challenges for dealers.[13] Specifically, the MSRB understands that the pandemic continues to affect dealers' ability to wholly operationalize the changes necessary to implement the new Form G–32 amendments by the March 31, 2021 compliance date. For example, dealers need additional time to develop and test applicable compliance processes and procedures prior to the compliance date and to conduct staff training necessary to effectively implement the new Form G–32 amendments.[14]

The MSRB published the updated ''EMMA Dataport Manual for Primary Market Submissions'' (''manual'') on January 29, 2021.[15] While the MSRB previously provided dealers with access to the new amended Form G–32 in October 2020 through the new Form G–32 clarifying amendment, the MSRB believes providing a further extension of time from March 31, 2021 to August 2, 2021, will afford dealers the time they deem necessary to implement policies and procedures and to conduct appropriate staff training to effectively operationalize compliance with new Form G–32.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act,[16] which provides that the MSRB's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The proposed rule change does not alter any rule language but provides dealers with additional time to comply with certain obligations under MSRB Rule G–32. In addition, the proposed rule change will alleviate some of the operational challenges dealers may be experiencing and allow them to more

[4] *See* Release No. 34–86219 (June 27, 2019), 84 FR 31961 (July 3, 2019) (File No. SR–MSRB–2019–07).

[5] *Id.*

[6] *Id.* Completing Form G–32 is a requirement under Rule G–32. An underwriter must ensure that the data submitted on Form G–32 is accurate. Even if the underwriter initially enters the data into NIIDS and that data is, thereafter, auto-populated into the Form G–32, the underwriter is responsible for ensuring the submission of accurate information on Form G–32. *See* Release No. 34–85551 (April 2, 2019), 84 FR 14988 (April 8, 2019) (File No. SR–MSRB–2019–07) at notes 13–14.

[7] *See* MSRB Notice 2019–21 (December 20, 2019), announcing the November 30, 2020 effective date for amendments to Form G–32 that the Commission approved on June 27, 2019.

[8] *See* ''Proclamation 9994—Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak,'' (March 13, 2020) at *https://www.govinfo.gov/content/pkg/DCPD-202000156/pdf/DCPD-202000156.pdf,* 85 FR 15337 (March 18, 2020).

[9] *See* Release No. 34–88694 (April 20, 2020), 85 FR 23088 (April 24, 2020) (File No. SR–MSRB–2020–01).

[10] *Id.*

[11] *See* Release No. 34–90248 (October 22, 2020) 85 FR 68395 (October 28, 2020) (File No. SR–MSRB–2020–08). The three additional manually submitted data elements were originally included with the 57 NIIDS auto-populated data elements identified by the MSRB for collection in the 2019 rule filing. Accordingly, presently there are 66 new data elements included on amended Form G–32, including 54 data elements submitted to NIIDS and auto-populated to amended Form G–32, and 12 additional data elements that must be submitted manually to EMMA Dataport, as applicable. *Id.*

[12] *See* Release No. 34–90611 (December 9, 2020), 85 FR 81248 (December 15, 2020) (File No. SR–MSRB–2020–08).

[13] In December 2020, the SEC approved an additional MSRB proposed rule change for immediate effectiveness that provided further COVID–19 pandemic-related regulatory relief to regulated entities from certain other MSRB rule requirements outside of Rule G–32. *See* Release No. 34–90621 (December 9, 2020), 85 FR 21854 (December 15, 2020) (File No. SR–MSRB–2020–09).

[14] For example, dealers informed the MSRB that information required to complete manual submission of certain new data elements must be obtained from their fixed income trading desks and then reported to EMMA Dataport by back-office personnel responsible for such data entry. Dealers must identify appropriate staff and create procedures to operationalize the new information gathering and amended Form G–32 reporting process.

[15] *See* ''Emma Dataport Manual for Primary Market Submissions,'' Version 3.0, January 2021, effective August 2021.

[16] 15 U.S.C. 78*o*–4(b)(2)(C).

effectively allocate resources to implement new Form G–32 effectively, which would (1) promote just and equitable principles of trade, (2) foster cooperation and coordination with persons engaged in regulating and processing information with respect to transactions in municipal securities, and (3) remove impediments to and perfect the mechanism of a free and open market in municipal securities. The proposed rule change would promote just and equitable principles of trade by providing additional time for dealers to establish compliance procedures to ensure that all applicable fields are complete and accurate. In turn, more accurate and complete information will enhance the MSRB's regulatory transparency initiatives and facilitate the MSRB's own usage of data, which the MSRB believes helps remove impediments to, and promotes the mechanisms of a free and open market and fosters cooperation and coordination with persons engaged in regulating and processing information with respect to transactions in municipal securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Act requires that MSRB rules be designed not to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[17] The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. The goal of the proposed rule change is to grant additional time for dealers to meet certain obligations under Rule G–32 during the exigent circumstances of the COVID–19 pandemic but would not alter their underlying obligations under MSRB rules.

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 on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[18] and Rule 19b–4(f)(6)[19] 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.

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–MSRB–2021–01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2021–01. 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 MSRB. 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–MSRB–2021–01 and should be submitted on or before March 19, 2021.

For the Commission, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–03948 Filed 2–25–21; 8:45 am]

BILLING CODE 8011–01–P

[17] *Id.*

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 200.30–3(a)(12).

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 29, 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:

Solicitation of Public Comments: In carrying out its statutory mandate in 15

U.S.C. 637(m) to provide oversight of certification related to the Women-Owned Small Business Federal Contract Program (WOSB Program), the U.S. Small Business Administration (SBA) is currently approved to collect information from WOSB Program applicants or participants through its certification and information collection platform, *Certify.SBA.gov* (Certify). SBA is revising this information collection by updating its hourly burden analysis to reflect the new certification requirements, including the new monthly reporting requirement for third-party certifiers, and adding instructions for firms that wish to document their eligibility using their CVE certification.

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: 3245–0374.

Title: ''Certification for the Women-Owned Small Business Federal Contract Program.''

SBA Form Number: 2413, 2414.

Description of Respondents: Women Owned Small Business.

Estimated Number of Respondents: 12,000.

Estimated Annual Responses: 12,000.

Estimated Annual Hour Burden: 24,400.

Curtis Rich,

Management Analyst.

[FR Doc. 2021–04036 Filed 2–25–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16876 and #16877; Texas Disaster Number TX–00591]

Presidential Declaration Amendment of a Major Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–4586–DR), dated 02/19/2021.

Incident: Severe Winter Storms.

Incident Period: 02/11/2021 and continuing.

DATES: Issued on 02/22/2021.

Physical Loan Application Deadline Date: 04/20/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 11/19/2021.

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: The notice of the President's major disaster declaration for the State of Texas, dated 02/19/2021, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Anderson, Austin, Bosque, Bowie, Burnet, Cherokee, Colorado, Erath, Fannin, Freestone, Gonzales, Grayson, Gregg, Harrison, Hill, Houston, Hunt, Jackson, Jim Wells, Jones, Limestone, Lubbock, Medina, Milam, Navarro, Rusk, Taylor, Tom Green, Val Verde, Washington, Wood.

Contiguous Counties (Economic Injury Loans Only):

Texas: Cass, Coke, Concho, Crockett, Crosby, Delta, Duval, Edwards, Floyd, Franklin, Frio, Hale, Haskell, Hockley, Hopkins, Irion, Lamar, Lamb, Lynn, Menard, Reagan, Red River, Runnels, Schleicher, Sterling, Stonewall, Sutton, Terrell, Terry.

Arkansas: Little River, Miller.

Oklahoma: Bryan, Marshall, McCurtain.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2021–04017 Filed 2–25–21; 8:45 am]

BILLING CODE 8026–03–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36354]

Arkansas Southern Railroad, L.L.C.—Lease Exemption With Interchange Commitment—The Kansas City Southern Railway Company

Arkansas Southern Railroad, L.L.C. (ARS), a Class III railroad, has filed a verified notice of exemption under 49 CFR 1150.41 to amend and extend its leases from The Kansas City Southern Railway Company (KCS) of two lines of railroad: (1) Between milepost 4.0 near Heavener, Okla., and milepost 33.0 at Waldron, Ark.; and (2) between milepost 32.0 at Ashdown, Ark., and milepost 0.0 at Nashville, Ark. (excluding the 601 track switch at Ashdown) (collectively, the Lines).

According to ARS, it has operated the Lines since 2005 pursuant to lease agreements with KCS,[1] and the parties entered into restated leases in 2016 (the Leases).[2] The verified notice indicates that ARS and KCS executed amendments to the Leases on July 20, 2020 (the Amendments), extending the term of the Leases through November 30, 2034, among other changes. ARS states that it intends for the Amendments to take effect on or shortly after the effective date of this exemption.

ARS certifies that the Leases contain an interchange commitment.[3] Accordingly, ARS has provided additional information regarding the interchange commitment, as required by 49 CFR 1150.43(h).

ARS certifies that its projected annual revenues as a result of this transaction will not exceed $5 million and will not result in the creation of a Class I or Class II rail carrier.

The earliest this transaction may be consummation is March 14, 2021, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 5, 2021.

All pleadings, referring to Docket No. FD 36354, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on ARS's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to ARS, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

[1] *See Ark. S. R.R.—Lease Exemption—The Kan. City S. Ry.,* FD 34760 (STB served Oct. 26, 2005).

[2] *See Ark. S. R.R.—Lease Exemption Containing Interchange Commitment—The Kan. City. S. Ry.,* FD 36061 (STB served Oct. 7, 2016).

[3] A copy of the Leases and the Amendments with the interchange commitment was submitted under seal. *See* 49 CFR 1150.43(h)(1).

Board decisions and notices are available at *www.stb.gov.*

Decided: February 22, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Eden Besera,

Clearance Clerk.

[FR Doc. 2021–03932 Filed 2–25–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36355]

Louisiana Southern Railroad, L.L.C.—Lease & Operation Exemption With Interchange Commitment—The Kansas City Southern Railway Company

Louisiana Southern Railroad, L.L.C. (LAS), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to continue to lease from the Kansas City Southern Railway Company (KCS) and operate approximately 165.8 miles of rail lines extending: (1) Between a point 1,600 feet south of Highway 80 near Gibsland, La., and milepost B–192, near Pineville, La.; (2) on the Sibley Branch, between milepost 83.5, at Sibley, La., and milepost 78.8, at Minden, La.; (3) between milepost 49.6, near Cullen, La., and milepost 78.8, at Minden; and (4) between milepost 78.8, at Minden, and milepost B–102, near Bossier, La., on the Hope Subdivision (the Lines).[1]

LAS states that it and KCS executed amendments on July 20, 2020 (Amendments), to the Amended and Restated Lease Agreements from 2016 (Restated Leases)[2] currently governing LAS's lease and operation of the Lines. The Amendments extend the terms of the Restated Leases to November 30, 2034.

LAS states that the Restated Leases contain interchange commitments and that the affected interchanges are with Louisiana and North West Railroad Company, LLC, at Gibsland and Union Pacific Railroad Company (UP) at Tioga, La., both of which are located on the Gibsland-Pineville line segment, and with UP at Bossier City, La. (on the Hope Subdivision). Accordingly, LAS has provided additional information regarding the interchange commitments, as required by 49 CFR 1150.43(h). LAS states that it will continue to be the operator of the Lines.

LAS certifies that its projected annual revenues as a result of this transaction will not result in LAS's becoming a Class II or Class I rail carrier, but that its current annual revenues exceed, and are expected to continue to exceed, $5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed $5 million, it must, at least 60 days before this exemption is to become effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, LAS has filed a petition for waiver of the 60-day advance labor notice requirements. LAS's waiver request will be addressed in a separate decision. The Board will establish the effective date of the exemption in its separate decision on the waiver request.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 5, 2021.

All pleadings, referring to Docket No. FD 36355, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on LAS's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to LAS, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: February 22, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Tammy Lowey,

Clearance Clerk.

[FR Doc. 2021–03957 Filed 2–25–21; 8:45 am]

BILLING CODE 4915–01–P

[1] According to the verified notice, LAS has operated the Lines since 2005. *See La. S. R.R.—Lease & Operation Exemption—Kan. City S. Ry.,* FD 34751 (STB served Oct. 7, 2005); *La. S. R.R.—Lease & Operation Exemption Including Interchange Commitment—Kan. City S. Ry.,* FD 35983 (STB served Feb. 5, 2016).

[2] Copies of the Restated Leases and Amendments with the interchange commitments were submitted under seal. *See* 49 CFR 1150.43(h)(1).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0167]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Rotorcraft External Load Operator Certificate Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request Office of Management and Budget (OMB) approval to renew an information collection. The collection involves the submission of FAA Form 8710–4 for the certification process of rotorcraft external-load operators. The information to be collected is necessary to evaluate the applicants' eligibility for certification.

DATES: Written comments should be submitted by April 27, 2021.

ADDRESSES: Please send written comments:

By Electronic Docket: *www.regulations.gov* (Enter docket number into search field)

By mail: Dwayne C. Morris, 800 Independence Ave. SW, Washington, DC 20591

By email: chris.morris@faa.gov

FOR FURTHER INFORMATION CONTACT: Raymond Plessinger by email at: *raymond.plessinger@faa.gov;* phone: 717–443–7296.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0044.

Title: Rotorcraft External Load Operator Certificate Application.

Form Numbers: FAA Form 8710–4.

Type of Review: Renewal.

Background: This collection involves the application for issuance or renewal

of a 14 CFR part 133 Rotorcraft External Load Operator Certificate. Application for an original certificate or renewal of a certificate issued under 14 CFR part 133 is made on a form, and in a manner prescribed by the Administrator. The FAA form 8710–4 may be obtained from an FAA Flight Standards District Office, or online at *https://www.faa.gov/documentLibrary/media/form/faa8710-4.pdf.* The completed application is sent to the district office that has jurisdiction over the area in which the applicant's home base of operation is located.

The information collected includes: type of application, operator's name/DBA, telephone number, mailing address, physical address of the principal base of operations, chief pilot/designee name, airman certificate grade and number, rotorcraft make, model and registration numbers to be used, and load combinations requested.

Respondents: 357 active part 133 certificate-holders.

Frequency: New applications when needed; current 14 CFR part 133 certificate-holders must renew every 24 months.

Estimated Average Burden per Response: 30 minutes per application.

Estimated Total Annual Burden: 89 total hours per year.

Issued in Washington, DC, on February 23, 2021.

Dwayne C. Morris,

Project Manager, Flight Standards Service, General Aviation and Commercial Division.

[FR Doc. 2021–04037 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Transportation Project in Florida

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by Florida Department of Transportation (FDOT).

SUMMARY: The FHWA, on behalf of the FDOT, is issuing this notice to announce actions taken by FDOT and other Federal Agencies that are final agency actions. These actions relate to the proposed interchange on Interstate 95 at Pioneer Trail (County Road 4118) in Volusia County, State of Florida. These actions grant licenses, permits, or approvals for the project.

DATES: By this notice, the FHWA, on behalf of FDOT, is advising the public of final agency actions. A claim seeking judicial review of the Federal Agency actions on the listed highway project will be barred unless the claim is filed on or before July 26, 2021. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FDOT: Jason Watts, Director, Office of Environmental Management, FDOT, 605 Suwannee Street, MS 37, Tallahassee, Florida 32399; telephone (850) 414–4316; email: *Jason.Watts@dot.state.fl.us.* The FDOT Office of Environmental Management's normal business hours are 8:00 a.m. to 5:00 p.m. (Eastern Standard Time), Monday through Friday, except State holidays.

SUPPLEMENTARY INFORMATION: Effective December 14, 2016, the FHWA assigned, and the FDOT assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that FDOT and other Federal Agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, or approvals for the proposed improvement highway project. The actions by FDOT and other Federal Agencies on the project, and the laws under which such actions were taken are described in the Type 2 Categorical Exclusion (CE) issued on January 27, 2021 and in other project records for the listed project. The Type 2 CE and other documents for the listed project are available by contacting FDOT at the address provided above. The Type 2 CE and additional project documents can be viewed and downloaded from the project website at: *https://www.cflroads.com/project/436292-1.*

The project subject to this notice is:

Project Location: Volusia County, Florida, I–95 Interchange at Pioneer Trail (County Road 4118) in the City of Port Orange and the City of New Smyrna Beach, Florida. This project will construct a new interchange along I–95 at Pioneer Trail that includes stormwater management and floodplain compensation ponds.

Project Actions: This notice applies to the Type 2 CE, and all other Federal Agency licenses, permits, or approvals for the listed project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321 *et seq.*]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128]; 23 CFR part 771.

2. *Air:* Clean Air Act (CAA) [42 U.S.C. 7401–7671(q)], with the exception of project level conformity determinations [42 U.S.C. 7506].

3. *Noise:* Noise Control Act of 1972 [42 U.S.C. 4901–4918]; 23 CFR 772.

4. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [23 U.S.C. 138 and 49 U.S.C. 303]; 23 CFR part 774; Land and Water Conservation Fund (LWCF) [54 U.S.C. 200302–200310].

5. *Wildlife:* Endangered Species Act (ESA) [16 U.S.C. 1531–1544 and 1536]; Marine Mammal Protection Act [16 U.S.C. 1361–1423h], Anadromous Fish Conservation Act [16 U.S.C. 757(a)–757(f)]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act (MBTA) [16 U.S.C. 703–712]; Magnuson-Stevenson Fishery Conservation and Management Act of 1976, as amended [16 U.S.C. 1801–1891d], with Essential Fish Habitat requirements [16 U.S.C. 1855(b)(2)].

6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 3006101 *et seq.*]; Archaeological Resources Protection Act of 1979 (ARPA) [16 U.S.C. 470(aa)–470(II)]; Preservation of Historical and Archaeological Data [54 U.S.C. 312501–312508]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013; 18 U.S.C. 1170].

7. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000 d–2000d–1]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

8. *Wetlands and Water Resources:* Clean Water Act (Section 319, Section 401, Section 404) [33 U.S.C. 1251–1387]; Coastal Barriers Resources Act (CBRA) [16 U.S.C. 3501–3510]; Coastal Zone Management Act (CZMA) [16 U.S.C. 1451–1466]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300f–300j—26]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation, [23 U.S.C. 119(g) and 133(b)(3)]; Flood Disaster Protection Act [42 U.S.C. 4001–4130].

9. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6901–6992(k)].

10. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address

Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: February 17, 2021.

Karen M. Brunelle,

Director, Office of Project Development, Federal Highway Administration, Tallahassee, Florida.

[FR Doc. 2021–03930 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0072; Notice 1]

PT. Multistrada Arah Sarana Tbk, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: PT. Multistrada Arah Sarana, Tbk (MASA) has determined that certain Achilles, Corsa, Radar, and Milestar brand tires in various sizes do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles,* and Part 574, *Tire Identification and Recordkeeping.* MASA filed a noncompliance report dated June 1, 2020, and subsequently petitioned NHTSA on June 25, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of MASA's petition.

DATES: Send comments on or before March 29, 2021.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. *Overview:* MASA has determined that certain Achilles, Corsa, Radar, and Milestar brand tires in various sizes do not fully comply with the requirements of paragraph S5.5.1 of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139) and S574.5 of Part 574, *Tire Identification and Recordkeeping* (49 CFR 574). MASA filed a noncompliance report dated June 1, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports,* and subsequently petitioned NHTSA on June 25, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of MASA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. *Tires Involved:* Approximately 1,673,307 of the following Achilles, Corsa, Radar, and Milestar brand tires in various sizes, manufactured between January 3, 2016, and March 14, 2020, are potentially involved:

- Achilles 868 All Seasons, ATR Sport 2, Desert Hawk H/T2, 122, ATR–K Sport, and Desert Hawk UHP.
- Radar Renegade H/T and Renegade A/T.
- Corsa All Terrain XL and Highway Terrain.
- Milestar MS932XP, Patagonia M/T, and Grantland.

III. Noncompliance: MASA explains that the noncompliance is that the optional code in tire identification numbers (TIN), on the subject tires, exceeds the number of characters allowed and therefore does not fully comply with Part 574.5(g)(3), as required by S5.5.1 of FMVSS No. 139. Specifically, MASA introduced a modified optional code sequence, which utilized up to 6 characters in the tire identification number third grouping, when the optional code should be no more than 4 characters.

IV. Rule Requirements: Paragraph S5.5.1 of FMVSS No. 139 and part 574.5(g)(3) includes the requirements relevant to this petition. Each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire. For new tires, the third group, consisting of no more than four symbols, may be used at the option of the manufacturer or retreader as a

descriptive code for the purpose of identifying significant characteristics of the tire.

V. Summary of MASA's Petition: The following views and arguments presented in this section, V. Summary of MASA's Petition, are the views and arguments provided by MASA. They have not been evaluated by the Agency and do not reflect the views of the Agency. MASA described the subject noncompliance and stated their belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, MASA submitted the following reasoning:

1. *Operational Safety:*

a. MASA stated their belief that a TIN marking noncompliance does not create any operational safety risk for the vehicle. The tires comply with applicable FMVSS performance requirements and all other applicable regulations. A summary of production tire compliance audit testing will be provided to NHTSA separately from this filing.

b. The incorrect TIN marking with additional characters in the optional code has no bearing on tire performance.

c. The subject tires are properly marked with all other markings required under FVMSS No. 139, such as paragraph S5.5(c), maximum permissible inflation pressure, and paragraph S5.5(d), maximum load rating. The necessary information is available on the sidewall of the tire to ensure proper application and usage.

d. The subject tires contain the DOT symbol on both sidewalls, thus, indicating conformance to applicable FMVSS.

2. *Identification and Traceability:*

a. All information required by 49 CFR 574.5 for the TIN (plant code +size code+ option code+ date code) is present on the sidewall of the tire.

b. For identification and traceability purposes, the key information of the plant code and manufacturing date is present on the tire.

c. The existence of extra characters in the optional code does not inhibit the ability of a tire distributor, the tire dealer, or the consumer to register the tires.

d. ln the event that dealer/owner notifications are required, the TIN, as molded on the subject tires, is sufficient to ensure proper communication and identification of the tires.

e. To date, there is no record of a distributor, dealer, consumer, or other concerned party raising a question about tires with the extraneous characters

7. *Summary:* Based on the information presented, the tires molded with extraneous TIN optional code characters do not present a risk for motor vehicle safety. Additionally, identification and traceability of the subject tires could be accomplished in the event of a need to conduct a dealer/owner notification. Production records link plant code, size code, and optional code with the manufacturing dates for all concerned brands and tire sizes.

MASA concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject tires that MASA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after MASA notified them that the subject noncompliance existed.

(*Authority:* 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2021–04000 Filed 2–25–21; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Community Development Financial Institutions Rapid Response Program (CDFI RRP)

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for grants to support, prepare for, and respond to the economic impacts of the COVID–19 pandemic through the Community Development Financial Institutions Fund (CDFI Fund) CDFI Rapid Response Program (CDFI RRP).

Announcement Type: Announcement of funding opportunity.

Funding Opportunity Number: CDFI–2021–RRP.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.024.

DATES:

TABLE 1—CDFI RAPID RESPONSE PROGRAM CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (eastern time—ET)	Submission method
Last day to enter EIN and DUNS numbers in AMIS	March 22, 2021	11:59 p.m	AMIS.
Last day to submit SF–424 Mandatory (Application for Federal Assistance).	March 22, 2021	11:59 p.m	Electronically via *Grants.gov.*
Last day to contact CDFI Fund with questions about the CDFI Rapid Response Program.	March 23, 2021	5:00 p.m	Service Request [1] via AMIS or CDFI Fund Helpdesk: 202–653–0421.
Last day to contact AMIS–IT Help Desk (regarding AMIS technical problems only).	March 25, 2021	5:00 p.m	Service Request via AMIS or 202–653–0422 or *AMIS@cdfi.treas.gov.*
Last day to submit CDFI Rapid Response Program Application.	March 25, 2021	11:59 p.m	AMIS.

Executive Summary: Through the CDFI Rapid Response Program (CDFI RRP), the CDFI Fund will provide (i) awards of up to $5 million to Certified Community Development Financial Institutions (CDFIs) [2] to support, prepare for, and respond to the economic impact of the COVID–19 pandemic. All awards provided through this NOFA are subject to funding availability.

I. Program Description

A. History: The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994 to promote economic revitalization and community development through investment in and assistance to CDFIs. The CDFI Rapid Response Program was authorized by Congress to provide grants to CDFIs to support, prepare for, and respond to the economic impact of the COVID–19 pandemic.

B. Priorities: Through CDFI Rapid Response Program grants, the CDFI Fund will invest in and build the capacity of for-profit and non-profit community based lending organizations known as CDFIs. These organizations, certified as CDFIs by the CDFI Fund, serve rural and urban Low-Income people, and communities across the nation that lack adequate access to affordable Financial Products and Financial Services. The CDFI Rapid Response Program grants will be used to support the CDFI's provision of financial products and services to underserved people and communities as well as the operational expenses to support the CDFI's operational capacity.

C. Authorizing Statutes and Regulations: The CDFI Rapid Response Program is authorized by The Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (Pub. L. 116–260) (Authorizing Statute). The regulations governing the CDFI Program are found at 12 CFR parts 1805 and 1815 (the Regulations) and are used by the CDFI Fund to govern, in general, the CDFI Rapid Response Program, setting forth evaluation criteria and other program requirements. The CDFI Fund encourages Applicants to review the Regulations; this NOFA; the CDFI Rapid Response Program Application (the Application); all related materials and guidance documents found on the CDFI Fund's website (Application materials); and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000), which is the Department of the Treasury's codification of the Office of Management and Budget (OMB) government-wide framework for grants management at 2 CFR part 200 (the Uniform Requirements) for a complete understanding of the program. Capitalized terms in this NOFA are defined in the Authorizing Statute, the Regulations, this NOFA, the Application, Application materials, or the Uniform Requirements. Details regarding Application content requirements are found in the Application and Application materials.

D. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000): The Uniform Requirements codify financial, administrative, procurement, and program management standards that Federal awarding agencies must follow. When evaluating Applications, awarding agencies must evaluate the risks posed by each Applicant, and each Applicant's merits and eligibility. These requirements are designed to ensure that Applicants for Federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as certification status, financial and compliance performance, portfolio and balance sheet strength, a diversity of CDFI business model types, and program capacity. In addition, the Uniform Requirements include guidance on audit requirements and other award compliance requirements for Recipients.

E. Funding limitations: The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA.

II. Federal Award Information

A. Funding Availability:

[1] Service Request shall mean a written inquiry or notification submitted to the CDFI Fund via AMIS.

[2] Certified CDFI shall mean an entity that the CDFI Fund has officially notified that it meets all CDFI certification requirements.

1. CDFI Rapid Response Program: The CDFI Fund expects to award, through this NOFA, approximately $1.248 billion as indicated in the following table:

TABLE 2—CDFI RAPID RESPONSE PROGRAM ANTICIPATED CATEGORY AMOUNTS

Funding categories	Estimated total amount to be awarded	Award amount		Estimated number of awards	Estimated average amount to be Awarded [3]
		Minimum	Maximum *		
CDFI Rapid Response Program.	$1,223,000,000	$200,000	$5,000,000 or 150% of the Applicant's Total On-Balance Sheet Financial Products Closed in Eligible Markets and/or Target Markets [4] in the Most Recent Historic Fiscal Year, [5] whichever is less.	1,000	$1,189,000
CDFI Rapid Response Program—Native Communities [6].	No less than $25,000,000 [7]	200,000	5,000,000 or 150% of the Applicant's Total On-Balance Sheet Financial Products Closed in Eligible Markets and/or Target Markets in the Most Recent Historic Fiscal Year, whichever is less.	50	1,189,000

* The CDFI Fund does not anticipate that any applicant will receive the maximum award amount of $5 million. The award is dependent on the number of awards made, for example: If there are 510 awards, the estimated largest award would be $3.3 million; if there are 800 awards, the estimated largest award would be $1.8 million; and if there are 1,050 awards, the estimated largest award would be $1.4 million.

The CDFI Fund reserves the right to award more or less than the amounts cited above in each category, based upon available funding and other factors, as appropriate.

2. Funding Availability for the CDFI Rapid Response Program: Funding for the CDFI Rapid Response Program is provided through The Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (Pub. L. 116–260).

3. Anticipated Start Date and Period of Performance: The Period of Performance for CDFI Rapid Response Program grants begins with the date of the award announcement and includes a Certified CDFI Recipient's two full consecutive fiscal years after the date of the award announcement, during which the Recipient must meet the Performance Goals and Measures (PG&Ms) set forth in the Assistance Agreement.

B. Types of Awards: Through the CDFI Rapid Response Program, the CDFI Fund provides awards in the form of grants to Certified CDFIs. At least $25 million of the funds available must be awarded in the form of a grant to Certified CDFIs that serve Native Communities.[8] The CDFI Fund reserves the right, in its sole discretion, to provide a CDFI Rapid Response Program grant in an amount other than that which the Applicant requests; however, the CDFI Rapid Response Program grant amount will not exceed the Applicant's request as stated in its Application.

C. Eligible Activities:

1. CDFI Rapid Response Program: CDFI Rapid Response Program grant funds may be expended for eligible activities serving Commercial Real Estate, Small Business, Microenterprise, Community Facilities, Consumer Financial Products, Consumer Financial Services, Commercial Financial Products, Commercial Financial Services, Affordable Housing, Intermediary Lending to Non-Profits and CDFIs, and other lines of business as deemed appropriate by the CDFI Fund in the following five categories supporting the direct provision of financial products and services: (i) Financial Products; (ii) Financial Services; (iii) Loan Loss Reserves; (iv) Development Services; and (v) Capital Reserves. In addition, the greater of $200,000 or 15% of the CDFI Rapid Response Program grant may be expended for supporting operations in the following seven eligible activity categories: (vi) Compensation—Personal Services; (vii) Compensation—Fringe Benefits; (viii) Professional Service Costs; (ix) Travel Costs; (x) Training and Education Costs; (xi) Equipment; and (xii) Supplies. CDFI Rapid Response Program grants may only be used for Direct Costs associated with an eligible activity. Direct Costs are incurred by the Recipient to carry out the award eligible activities is as described in section 2 CFR 200.413 of the Uniform Requirements. The eligible activity categories will not be authorized for Indirect Costs or an associated Indirect Cost Rate. Any expenses that are prohibited by the Uniform Requirements are unallowable and are

[3] The Estimated Average Amount to be Awarded is derived from the Estimated Total Amount to be Awarded divided by the Estimated Number of Awards for both funding categories.

[4] Total On-Balance Sheet Financial Products Closed in Eligible Markets and/or Target Markets is the sum of the following Application Financial Data inputs in the CDFI Rapid Response Program Application: On-Balance Sheet Loans Closed in Eligible Markets and/or Target Markets, On-Balance Sheet Loan Guarantees Made in Eligible Markets and/or Target Markets, and Total Equity Investments Closed in Eligible Markets and/or Target Markets.

[5] For the purposes of this NOFA, an Applicant's most recent historic fiscal year end is determined as follows:

(A) Applicants with a 3/31 fiscal year end date will treat FY 2020 as their most recent historic fiscal year and FY 2021 as their current year.

(B) Applicants with a 6/30 fiscal year end date will treat FY 2020 as their most recent historic fiscal year and FY 2021 as their current year.

(C) Applicants with a 9/30 fiscal year end date and a completed FY 2020 audit will treat FY 2020 as their most recent historic fiscal year and FY 2021 as their current year.

(D) Applicants with a 9/30 fiscal year end date but without a completed FY 2020 audit will treat FY 2019 as their most recent historic fiscal year and FY 2020 as their current year.

(E) Applicants with a 12/31 fiscal year end date, with or without a completed FY 2020 audit, will treat FY 2019 as their most recent historic fiscal year and FY 2020 as their current year.

[6] Native Communities shall mean Native American, Alaska Native, or Native Hawaiian populations or Native American areas defined as Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau-designated Tribal Statistical Areas.

[7] In accordance with the Authorizing Statute, no less than $25 million will be awarded as grants to benefit Native American, Native Hawaiian, and Alaska Native communities.

[8] To qualify as a CDFI that serves Native Communities an Applicant must meet several requirements.

1. 50% or more of the Applicant's past activities must be directed to Native Communities.

2. The Applicant's certification Target Market must have one or more of the following characteristics.

a. For qualifying with an Investment Area Target Market, the Applicant must demonstrate that the Investment Area approved for certification is also a geographic area of Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau designated Tribal Statistical Areas; and/or

b. For qualifying with an Other Targeted Population (OTP) Target Market, the Applicant's Target Market approved for certification must be an OTP of Native Americans or American Indians, including Alaska Natives living in Alaska and Native Hawaiians living in Hawaii.

For purposes of this NOFA, a Native Community is defined as Native American, Alaska Native, or Native Hawaiian populations or Native American areas defined as Federally-designated reservations, Hawaiian homelands, Alaska Native Villages and U.S. Census Bureau-designated Tribal Statistical areas.

generally found in Subpart E-Cost Principles.

The CDFI Rapid Response Program Budget is the amount of the award and must be expended in the 12 eligible activity categories prior to the end of the Budget Period.[9] The CDFI Fund will not approve an amendment to extend the Budget Period to allow a Recipient additional time to expend the CDFI Rapid Response Program grant.

CDFI Rapid Response Program Recipients must meet certain PG&Ms:

(i) All CDFI Rapid Response Program Recipients must expend 90% of the Recipient's first payment amount in the first year of the Budget Period and expend 100% of the total award amount by the Budget Period end date.

(ii)(a) Recipients that receive an award greater than $200,000 (the minimum award amount) and that do not qualify for CDFI Rapid Response Program funding designated to benefit Native Communities, must meet the following requirement:

—Close Financial Products in an Eligible Market(s) or the Recipient's approved Target Market in an amount equal to or greater than 50% of the total CDFI Rapid Response Program award amount in the first year of the Period of Performance and 70% of the total CDFI Rapid Response Program award amount by the Period of Performance end date. If awarded, the Applicant may satisfy this goal using the CDFI Rapid Response Program Assistance or other available funds on its balance sheet.

(ii)(b) Recipients that receive an award greater than $200,000 (the minimum award amount) and that qualify for CDFI Rapid Response Program funding designated to benefit Native Communities must meet the following requirement:

—Close Financial Products in Native Communities in an amount equal to or greater than 50% of the total CDFI Rapid Response Program award amount in the first year of the Period of Performance and 70% of the total CDFI Rapid Response Program award amount by the Period of Performance end date. If awarded, the Applicant may satisfy this goal using the CDFI Rapid Response Program Assistance or other available funds on its balance sheet.

Final PG&Ms may differ and will be set forth in the final CDFI Rapid Response Program Assistance Agreement. Financial Products and expended award funds used to satisfy the CDFI Rapid Response Program Performance Goals may not also be reported for Performance Goals related to CDFI Program and NACA Program awards.

The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 CFR 200.216 of the Uniform Requirements,[10] with respect to any Direct Costs.

For purposes of this NOFA, the 12 eligible activity categories are defined below:

TABLE 3—CDFI RAPID RESPONSE PROGRAM ELIGIBLE ACTIVITY CATEGORIES

Eligible activity	Eligible activity definition *	Eligible CDFI institution types
i. Financial Products	Grant funds expended as loans, Equity Investments and similar financing activities (as determined by the CDFI Fund) including the purchase of loans originated by Certified CDFIs and the provision of loan guarantees. In the case of CDFI Intermediaries, Financial Products may also include loans to CDFIs and/or Emerging CDFIs, and deposits in Insured Credit Union CDFIs, Emerging Insured Credit Union CDFIs, and/or State-Insured Credit Union CDFIs.	All.
ii. Financial Services	Grant funds expended for providing checking, savings accounts, check cashing, money orders, certified checks, automated teller machines, deposit taking, safe deposit box services, and other similar services.	Regulated Institutions [11] only.
iii. Loan Loss Reserves	Grant funds set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable or for related purposes that the CDFI Fund deems appropriate.	All.
iv. Development Services	Grant funds expended for activities undertaken by a CDFI, its Affiliate or contractor that (i) promote community development and (ii) prepare or assist current or potential borrowers or investees to use the CDFI's Financial Products or Financial Services. For example, such activities include financial or credit counseling; homeownership counseling; business planning; and management assistance.	All.
v. Capital Reserves	Grant funds set aside as reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or providing financing, or for related purposes as the CDFI Fund deems appropriate.	Regulated Institutions only.

[9] Budget Period means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which Recipients are authorized to expend the funds awarded. The Budget Period for CDFI Rapid Response Program grants begins with the date of the award announcement and includes a Certified CDFI Recipient's two full consecutive fiscal years after the date of the award announcement.

[10] § 2 CFR 200.216 prohibits Recipients and Subrecipients from obligating or expending loan or grant funds to procure or obtain, by contract or otherwise, equipment, services, or systems that use ''covered telecommunications equipment''. As used herein, ''covered telecommunications equipment'' is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any Subsidiary or Affiliate of such entities).

TABLE 3—CDFI RAPID RESPONSE PROGRAM ELIGIBLE ACTIVITY CATEGORIES—Continued

Eligible activity	Eligible activity definition *	Eligible CDFI institution types
Only the greater of $200,000 or 15 percent of the CDFI Rapid Response Program grant may be expended in the below seven eligible activity categories.		
vi. Compensation—Personal Services.	Grant funds paid to cover all remuneration, paid currently or accrued, for services of Applicant's employees rendered during the Period of Performance under the CDFI Rapid Response Program grant in accordance with section 200.430 of the Uniform Requirements. Any work performed directly, but unrelated to the purposes of the CDFI Rapid Response Program grant may not be paid as Compensation using a CDFI Rapid Response Program grant. For example, the salaries for building maintenance personnel would not carry out the purpose of a CDFI Rapid Response Program grant and would be deemed unallowable.	All.
vii. Compensation—Fringe Benefits	Grant funds paid to cover allowances and services provided by the Applicant to its employees as Compensation in addition to regular salaries and wages, in accordance with section 200.431 of the Uniform Requirements. Such expenditures are allowable as long as they are made under formally established and consistently applied organizational policies of the Applicant.	All.
viii. Professional Service Costs	Grant funds used to pay for professional and consultant services (*e.g.,* such as strategic and marketing plan development), rendered by persons who are members of a particular profession or possess a special skill (*e.g.,* credit analysis, portfolio management), and who are not officers or employees of the Applicant, in accordance with section 200.459 of the Uniform Requirements. Payment for a consultant's services may not exceed the current maximum of the daily equivalent rate paid to an Executive Schedule Level IV Federal employee. The Applicant must comply, as applicable, with section 2 CFR 200.216 of the Uniform Requirements, with respect to payment of Professional Service Costs.	All.
ix. Travel Costs	Grant funds used to pay costs of transportation, lodging, subsistence, and related items incurred by the Applicant's personnel who are on travel status on business related to the CDFI Rapid Response Program grant, in accordance with section 200.475 of the Uniform Requirements. Travel Costs do not include costs incurred by the Applicant's consultants who are on travel status. Any payments for travel expenses incurred by the Applicant's personnel but unrelated to carrying out the purpose of the CDFI Rapid Response Program grant would be deemed unallowable. As such, documentation must be maintained that justifies the travel as necessary to the CDFI Rapid Response Program grant.	All.
x. Training and Education Costs	Grant funds used to pay the cost of training and education provided by the Applicant for employees' development in accordance with section 200.473 of the Uniform Requirements. Grant funds can only be used to pay for training costs incurred by the Applicant's employees. Training and Education Costs may not be incurred by the Applicant's consultants.	All.
xi. Equipment	Grant funds used to pay for tangible personal property, having a useful life of more than one year and a per-unit acquisition cost of at least $5,000, in accordance with section 200.1 of the Uniform Requirements. For example, items such as office furnishings and information technology systems are allowable as Equipment costs. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 CFR 200.216 of the Uniform Requirements, with respect to the purchase of Equipment.	All.
xii. Supplies	Grant funds used to pay for tangible personal property with a per unit acquisition cost of less than $5,000, in accordance with section 200.1 of the Uniform Requirements. For example, a desktop computer costing $1,000 is allowable as a Supply cost. The Applicant must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 CFR 200.216 of the Uniform Requirements, with respect to the purchase of Supplies.	All.

* *All CDFI Rapid Response Program eligible activities must be in an Eligible Market or the Applicant's approved Target Market.* Eligible Market is defined as (i) a geographic area meeting the requirements set forth in 12 CFR 1805.201(b)(3)(ii), or (ii) individuals that are Low-Income, African American, Hispanic, Native American, Native Hawaiians residing in Hawaii, Alaska Natives residing in Alaska, or Other Pacific Islanders residing in American Samoa, Guam or the Northern Mariana Islands.

III. Eligibility Information

A. Eligible Applicants: For the purposes of this NOFA, the following tables set forth the eligibility criteria to receive an award from the CDFI Fund, along with certain definitions of terms. Table 4 below illustrates eligibility criteria for all CDFI Rapid Response Program Applicants including CDFI certification criteria and other requirements that apply to all CDFI Rapid Response Program Applicants.[12]

TABLE 4—ELIGIBILITY REQUIREMENTS FOR ALL CDFI RAPID RESPONSE PROGRAM APPLICANTS

Applicant	• Only the entity that will carry out the proposed award activities may apply for an award (other than Depository Institution Holding Companies (DIHC)[12]—see below). Recipients may not create a new legal entity to carry out the proposed award activities. • The information in the Application should only reflect the activities of the Applicant, including the presentation of financial and portfolio information. Do not include financial or portfolio information from parent companies, Affiliates, or Subsidiaries in the Application unless it relates to the provision of Development Services. • An Applicant that applies on behalf of another organization will be rejected without further consideration, other than Depository Institution Holding Companies (see below).
Application type and submission overview through *Grants.gov* and Awards Management Information System (AMIS).	• Applicants must submit the Required Application Documents listed in Table 5. • The CDFI Fund will only accept Applications that use the official Application templates provided on the *Grants.gov* and AMIS websites. Applications submitted with alternative or altered templates will not be considered. • Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) The SF–424 in *Grants.gov* and (2) all other Required Application Documents in AMIS. • *Grants.gov* and the SF–424: ○ *Grants.gov:* Applicants must submit the Standard Form (SF) SF–424, Application for Federal Assistance. ○ All Applicants must register in the *Grants.gov* system to successfully submit an Application. The CDFI Fund strongly encourages Applicants to register as soon as possible. ○ The CDFI Fund will not extend the SF–424 application deadline for any Applicant that started the *Grants.gov* registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline except in the case of a Federal government administrative or Federal government technological error that directly resulted in a late submission of the SF–424. ○ The SF–424 must be submitted in *Grants.gov* on or before the deadline listed in Table 1 and Table 6. Applicants are strongly encouraged to submit their SF–424 as early as possible in the *Grants.gov* portal. ○ The deadline for the *Grants.gov* submission is before the AMIS submission deadline. ○ The SF–424 must be submitted under the CDFI Rapid Response Program Funding Opportunity Number for the CDFI Rapid Response Program Application. ○ If the SF–424 is not accepted by *Grants.gov* by the deadline, the CDFI Fund will not review any material submitted in AMIS and the Application will be deemed ineligible. • AMIS and all other Required Application Documents listed in Table 5: ○ AMIS is an enterprise-wide information technology system. Applicants will use AMIS to submit and store organization and Application information with the CDFI Fund. ○ Applicants are only allowed one CDFI Rapid Response Program Application submission in AMIS. ○ Each Application in AMIS must be signed by an Authorized Representative. ○ Applicants must ensure that the Authorized Representative is an employee or officer of the Applicant, authorized to sign legal documents on behalf of the organization. *Consultants working on behalf of the organization may not be designated as Authorized Representatives.* ○ Only the Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. ○ All Required Application Documents must be submitted in AMIS on or before the deadline specified in Tables 1 and 6. ○ The CDFI Fund will not extend the deadline for any Applicant except in the case of a Federal government administrative or technological error that directly resulted in the late submission of the Application in AMIS.
Employer Identification Number (EIN)	• Applicants must have a unique EIN assigned by the Internal Revenue Service (IRS). • The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate organization. • The EIN in the Applicant's AMIS account must match the EIN in the Applicant's System for Award Management (SAM) account. The CDFI Fund reserves the right to reject an Application if the EIN in the Applicant's AMIS account does not match the EIN in its SAM account. • Applicants must enter their EIN into their AMIS profile by the deadline specified in Tables 1 and 6.
Dun & Bradstreet, (DUNS) number	• Pursuant to OMB guidance (68 FR 38402), an Applicant must apply using its unique DUNS number in *Grants.gov*. • The CDFI Fund will reject an Application submitted with the DUNS number of a parent or Affiliate organization.

[11] Regulated Institutions include Insured Credit Unions, Insured Depository Institutions, State-Insured Credit Unions and Depository Institution Holding Companies.

[12] Depository Institution Holding Company or DIHC means a Bank Holding Company or a Savings and Loan Holding Company.

TABLE 4—ELIGIBILITY REQUIREMENTS FOR ALL CDFI RAPID RESPONSE PROGRAM APPLICANTS—Continued

	• The DUNS number in the Applicant's AMIS account must match the DUNS number in the Applicant's *Grants.gov* and SAM accounts. The CDFI Fund will reject an Application if the DUNS number in the Applicant's AMIS account does not match the DUNS number in its *Grants.gov* and SAM accounts. • Applicants must enter their DUNS number into their AMIS profile on or before the deadline specified in Tables 1 and 6.
System for Award Management (SAM)	• SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. • Applicants must register in SAM as part of the *Grants.gov* registration process. • Applicants must have a DUNS number and an EIN number in order to register in SAM. • Applicants must be registered in SAM in order to submit an SF–424 in *Grants.gov*. • The CDFI Fund reserves the right to deem an Application ineligible if the Applicant's SAM account expires during the Application evaluation period, or is set to expire before September 30, 2021, and the Applicant does not re-activate, or renew, as applicable, the account within the deadlines that the CDFI Fund communicates to affected Applicants during the Application evaluation period.
AMIS Account	• The Authorized Representative and/or Application Point of Contact must be included as ''users'' in the Applicant's AMIS account. • An Applicant that fails to properly update its AMIS account may miss important communication from the CDFI Fund and/or may not be able to successfully submit an Application.
501(c)(4) status	• Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to receive a CDFI Rapid Response Program grant.
Compliance with Nondiscrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	• An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination within the last three years indicates the Applicant has violated any of the following laws, including but not limited to: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency.
Depository Institution Holding Company Applicant.	• In the case where a CDFI Depository Institution Holding Company Applicant intends to carry out the activities of an award through its Subsidiary CDFI Insured Depository Institution, the Application must be submitted by the CDFI Depository Institution Holding Company and reflect the activities and financial performance of the Subsidiary CDFI Insured Depository Institution. • If a Depository Institution Holding Company and its Certified CDFI Subsidiary Insured Depository Institution both apply for a CDFI Rapid Response Program grant, only the Depository Institution Holding Company will receive an award, not both. In such instances, the Subsidiary Insured Depository Institution will be deemed ineligible. • Authorized Representatives of both the Depository Institution Holding Company and the Subsidiary CDFI Insured Depository Institution must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the CDFI RRP grant will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.
Use of award	• All awards made through this NOFA must be used to support the Applicant's activities in at least one of the Eligible Activity Categories (see Section II.(C)). • With the exception of Depository Institution Holding Company Applicants, awards may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent. The Recipient of any award made through this NOFA must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 CFR 200.216 of the Uniform Requirements, with respect to any Direct Costs.
Requested award amount	• An Applicant must state its requested award amount in the Application in AMIS. An Applicant that does not include this amount will not be allowed to submit an Application. • An Applicant may not request more than 150% of the dollar volume of its Total On-Balance Sheet Financial Products Closed in Eligible Markets and/or Target Markets for its most recent historic fiscal year, with the following exception: An Applicant with Total On-Balance Sheet Financial Products Closed in Eligible Markets and/or Target Markets of less than $133,334 for its most recent historic fiscal year may request the minimum award size.
Pending resolution of noncompliance	• The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues on any of its previously executed award agreement(s), if the CDFI Fund has not yet made a final compliance determination.
Noncompliance or default status	• The CDFI Fund will not consider an Application submitted by an Applicant that has a previously executed award agreement(s) if, as of the date of the Application, (i) the CDFI Fund has made a final determination that such entity is noncompliant or found in default with a previously executed agreement, and (ii) the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an Application for such time period as specified by the CDFI Fund in writing. • The CDFI Fund will not consider any Applicant that has defaulted on a loan from the CDFI Fund within five years of the Application deadline.

TABLE 4—ELIGIBILITY REQUIREMENTS FOR ALL CDFI RAPID RESPONSE PROGRAM APPLICANTS—Continued

Debarment/Do Not Pay Verification	• The CDFI Fund will conduct a debarment check and will not consider an Application submitted by an Applicant if the Applicant (or Affiliate of an Applicant) is delinquent on any Federal debt. • The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government. The Do Not Pay Business Center provides delinquency information to the CDFI Fund to assist with the debarment check.
CDFI Certification Status	• Each CDFI Rapid Response Program Applicant must be a Certified CDFI as of the publication date of this NOFA in the **Federal Register**. • The CDFI Fund will consider an Application submitted by an Applicant that has pending noncompliance issues with its Annual Certification Report if the CDFI Fund has not yet made a final compliance determination. • If a Certified CDFI loses its certification at any point prior to the award announcement, the Application will be deemed ineligible and no longer be considered by the CDFI Fund.
Regulated Institution	• Each Regulated Institution CDFI Rapid Response Program Applicant must have a CAMELS/CAMEL rating (rating for banks and credit unions, respectively) or equivalent type of rating by its regulator (collectively referred to as "CAMELS/CAMEL rating") of at least "4". • CDFI Rapid Response Program Applicants with CAMELS/CAMEL ratings of "5" will not be eligible for awards. • The CDFI Fund will not approve a CDFI Rapid Response Program award for an Applicant that has a Community Reinvestment Act (CRA) assessment rating of below "Satisfactory" on its most recent examination. Applicants and/or their Appropriate Federal Banking Agency may be contacted by the CDFI Fund to provide additional information related to Federal bank regulatory or CRA information. The CDFI Fund will consider this information and may choose to not approve a CDFI Rapid Response Program award for an Applicant if the information indicates that the Applicant may be unable to responsibly manage, re-invest, and/or report on a CDFI Rapid Response Program award during the Period of Performance. • The CDFI Fund will also evaluate material concerns identified by the Appropriate Federal Banking Agency in determining the eligibility of Regulated Institution Applicants.

IV. Application and Submission Information

A. Address to Request an Application Package: Application materials can be found on the CDFI Fund's website at *www.cdfifund.gov.* Applicants may request a paper version of any Application material by contacting the CDFI Fund Help Desk at *cdfihelp@cdfi.treas.gov.* Paper versions of Application materials will only be provided if an Applicant cannot access the CDFI Fund's website.

B. Content and Form of Application Submission: All Applications must be prepared using the English language, and calculations must be computed in U.S. dollars. The following table lists the Required Application Documents for the CDFI Rapid Response Program Funding Round. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Financial data, portfolio, and activity information provided in the Application should only include the Applicant's activities. Information submitted must accurately reflect the Applicant's activities.

TABLE 5—REQUIRED APPLICATION DOCUMENTS

Application documents	Applicant type	Submission format
Active AMIS Account	All Applicants	AMIS.
SF–424	All Applicants	Fillable PDF in *Grants.gov.*
CDFI Rapid Response Program Application Components: • Funding Application Detail • Data and Charts as listed in AMIS and outlined in Application materials	All Applicants	AMIS.
ATTACHMENTS TO THE APPLICATION: Add to "Related Attachments" related list in Application		
Audited financial statements for the Applicant's Three Most Recent Historic Fiscal Years.	CDFI Rapid Response Program Applicants: if available: loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.

TABLE 5—REQUIRED APPLICATION DOCUMENTS—Continued

Application documents	Applicant type	Submission format
Management Letter for the Applicant's Most Recent Historic Fiscal Year ..... The Management Letter is prepared by the Applicant's auditor and is a communication on internal control over financial reporting, compliance, and other matters. The Management Letter contains the auditor's findings regarding the Applicant's accounting policies and procedures, internal controls, and operating policies, including any material weaknesses, significant deficiencies, and other matters identified during auditing. The Management Letter may include suggestions for improving on identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual audited financial statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP, and are sometimes provided by the auditor as a separate letter from the audit itself.	CDFI Rapid Response Program Applicants, if audited financial statements are available: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Statement in Lieu of Management Letter for Applicant's Most Recent Historic Fiscal Year issued by the Board Treasurer or other Board member using the template provided in the Application materials (required only if Management Letters are not available for audited financial statements).	CDFI Rapid Response Program Applicants if audited financial statements are available but a Management Letter is not available: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	AMIS.
Unaudited financial statements for Applicant's Three Most Recent Historic Years (required only if audited financial statements are not available).	CDFI Rapid Response Program Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.
Current Year to Date—December 31, 2020 Unaudited financial statements	CDFI Rapid Response Program Applicants: Loan funds, Venture Capital Funds, and other non-Regulated Institutions.	PDF in AMIS.

C. Application Submission: The CDFI Fund has a two-step process that requires the submission of Required Application Documents (listed in Table 5) on separate deadlines and locations. The SF–424 must be submitted through *Grants.gov* and all other Required Application Documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved in writing by the CDFI Fund. The deadline for submitting the SF–424 is listed in Tables 1 and 6.

All Applicants must register in the *Grants.gov* system to successfully submit the SF–424. The CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible (refer to the following link: *http://www.grants.gov/web/grants/register.html*). The *Grants.gov* registration process requires Applicants to have DUNS and EIN numbers.

The CDFI Fund will not extend the Application deadline for any Applicant that started the *Grants.gov* registration process but did not complete it by the deadline. An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process as the CDFI Fund does not maintain the *Grants.gov* system.

Each Application must be signed by a designated Authorized Representative in AMIS before it can be submitted. Applicants must ensure that an Authorized Representative is an employee or officer and is authorized to sign legal documents on behalf of the Applicant. Consultants working on behalf of the Applicant may not be designated as Authorized Representatives. Only a designated Authorized Representative or Application Point of Contact, included in the Application, may submit the Application in AMIS. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible.

D. Dun & Bradstreet Universal Numbering System: Pursuant to the Uniform Requirements, each Applicant must provide as part of its Application submission, a Dun and Bradstreet Universal Numbering System (DUNS) number. Applicants without a DUNS number will not be able to register and submit an Application in the *Grants.gov* system. Allow sufficient time for Dun & Bradstreet to respond to inquiries and/or requests for DUNS numbers.

E. System for Award Management (SAM): Any entity applying for Federal grants or other forms of Federal financial assistance through *Grants.gov* must be registered in SAM before submitting its Application. Registration in SAM is required as part of the *Grants.gov* registration process. A signed notarized letter identifying the SAM authorized entity administrator for the entity associated with the DUNS number is required. This requirement is applicable to new entities registering in SAM, as well as to existing entities with registrations being updated or renewed in SAM. Applicants without DUNS and/or EIN numbers should allow for additional time as an Applicant cannot register in SAM without those required numbers. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active. Each Applicant must continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an Application under consideration by a Federal awarding agency. The CDFI Fund will deem ineligible any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit the SF–424 in *Grants.gov* or Application in AMIS by the applicable Application deadlines. These restrictions also apply to organizations that have not yet received a DUNS or

EIN number. Applicants must contact SAM directly with questions related to registration or SAM account changes as the CDFI Fund does not maintain this system and has no ability to make changes or correct errors of any kind. For more information about SAM, visit *https://www.sam.gov.*

F. Submission Dates and Times:

1. Submission Deadlines: The following table provides the critical deadlines for the CDFI Rapid Response Program Funding Round.

TABLE 6—CDFI RAPID RESPONSE PROGRAM CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (eastern time-ET)	Submission method
Last day to enter EIN and DUNS numbers in AMIS	March 22, 2021	11:59 p.m	AMIS.
Last day to submit SF–424 Mandatory (Application for Federal Assistance).	March 22, 2021	11:59 p.m	Electronically via *Grants.gov.*
Last day to contact CDFI Fund with questions about the CDFI Rapid Response Program.	March 23, 2021	5:00 p.m	Service Request via AMIS or CDFI Fund Helpdesk: 202–653–0421.
Last day to contact AMIS–IT Help Desk (regarding AMIS technical problems only).	March 25, 2021	5:00 p.m	Service Request via AMIS or 202–653–0422 or *AMIS@cdfi.treas.gov.*
Last day to submit CDFI Rapid Response Program Application.	March 25, 2021	11:59 p.m	AMIS.

2. Confirmation of Application Submission in Grants.gov and AMIS: Applicants are required to submit the SF–424, Application for Federal Assistance through the *Grants.gov* system, under the CDFI Rapid Response Program Funding Opportunity Number by the applicable deadline. All other Required Application Documents (listed in Table 5) must be submitted through the AMIS website by the applicable deadline. Applicants must submit the SF–424 prior to submitting the Application in AMIS. If the SF–424 is not successfully accepted by *Grants.gov* by the deadline, the CDFI Fund will not review the Application submitted in AMIS, and the Application will be deemed ineligible.

a. *Grants.gov* Submission Information: Each Applicant will receive an email from *Grants.gov* immediately after submitting the SF–424 confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF–424. Within 48 hours, the Applicant will receive a second email, which will indicate if the submitted SF–424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF–424 was validated. Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF–424 by contacting the helpdesk at *Grants.gov* directly. The Application material submitted in AMIS is not officially accepted by the CDFI Fund until *Grants.gov* has validated the SF–424.

b. AMIS Submission Information: AMIS is a web-based portal where Applicants will directly enter their Application information and add the required attachments listed in Table 5. AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information and attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages Applicants to allow for sufficient time to review and complete the Application components and documents included in Table 5, and remedy any issues prior to the Application deadline. Each Application must be signed by an Authorized Representative in AMIS before it can be submitted. Applicants must ensure that the Authorized Representative is an employee or officer and is authorized to sign legal documents on behalf of the Applicant. Consultants working on behalf of the Applicant may not be designated as Authorized Representatives. Only an Authorized Representative or an Application Point of Contact may submit an Application. If an Authorized Representative or Application Point of Contact does not submit the Application, the Application will be deemed ineligible. Applicants may only submit one CDFI Rapid Response Program Application. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock or allow multiple Application submissions.

3. Late Submission: The CDFI Fund will not accept an Application if the SF–424 is not submitted and accepted by *Grants.gov* by the SF–424 deadline. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in AMIS by the Application deadline. In either case, the CDFI Fund will not review any material submitted, and the Application will be deemed ineligible.

However, in cases where a Federal government administrative or Federal government technological error directly resulted in a late submission of the SF–424 or the Application, Applicants are provided two opportunities to submit a written request for acceptance of late submissions. The CDFI Fund will not consider the late submission of the SF–424 or the Application that was a direct result of a delay in a Federal Government process, unless such delay was the result of a Federal government administrative or Federal government technological error.

a. SF–424 Late Submission: In cases where a Federal government administrative or Federal government technological error directly resulted in the late submission of the SF–424, the Applicant must submit a written request for acceptance of the late SF–424 submission and include documentation of the error no later than two business days after the SF–424 deadline. The CDFI Fund will not respond to requests for acceptance of late SF–424 submissions after that time period. Applicants must submit late SF–424 submission requests to the CDFI Fund via an AMIS Service Request to the CDFI Program with a subject line of ''Late SF–424 Submission Request.''

b. AMIS Application Late Submission: In cases where a Federal government administrative or Federal government technological error directly resulted in a late submission of the Application in AMIS, the Applicant must submit a written request for acceptance of the late Application submission and include documentation of the error no later than two business days after the Application deadline. The

CDFI Fund will not respond to requests for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an AMIS Service Request to the CDFI Program with a subject line of ''Late Application Submission Request.''

G. Funding Restrictions: CDFI Rapid Response Program grants are limited by the following:

a. A Recipient shall use CDFI Rapid Response Program funds only for the eligible activities described in Section II. (C)(1) of this NOFA and its Assistance Agreement.

b. With the exception of Depository Institution Holding Company Applicants, CDFI Rapid Response Program grants may not be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others, unless done pursuant to a merger or acquisition or similar transaction, and with the CDFI Fund's prior written consent.

c. CDFI Rapid Response Program funds shall only be paid to the Recipient.

d. The CDFI Fund, in its sole discretion, may pay CDFI Rapid Response Program funds in amounts, or under terms and conditions, which are different from those requested by an Applicant.

e. The Recipient must comply, as applicable, with the Buy American Act of 1933, 41 U.S.C. 8301–8303 and section 2 CFR 200.216 of the Uniform Requirements, with respect to any Direct Costs.

V. Application Review Information

A. Criteria: If the Applicant has submitted an eligible Application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFA, the Application guidance, and the Uniform Requirements. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the purpose of clarifying or confirming Application information. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or the Application may be rejected. The CDFI Fund will review the CDFI Rapid Response Program Applications in accordance with the process below. All reviewers will complete the CDFI Fund's conflict of interest process. The CDFI Fund's Application conflict of interest policy is located on the CDFI Fund's website.

1. CDFI Rapid Response Program Application Scoring, Award Selection, Review, and Selection Process: The CDFI Fund will evaluate each Application using a four-step review process described in the sections below. Applicants that meet the minimum criteria will advance to the next step in the review process.

a. Step 1: Eligibility Review: The CDFI Fund will evaluate each Application to determine its eligibility status pursuant to Section III of this NOFA.

b. Step 2: Financial Analysis and Compliance Risk Evaluation:

i. Step 2(a): Financial Analysis: For Regulated Institutions, the CDFI Fund will consider financial safety and soundness information from the Appropriate Federal or State Banking Agency. As detailed in Table 4, each Regulated Institution CDFI Rapid Response Program Applicant must have a CAMELS/CAMEL rating of at least ''4'' and/or no significant materials concerns from its regulator.

For non-regulated Applicants, the CDFI Fund will evaluate the financial health and viability of each non-regulated Applicant using financial information provided by the Applicant. For the Financial Analysis, each non-regulated Applicant will receive a Total Financial Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. The Total Financial Composite Score is based on the analysis of twenty-three (23) financial indicators. Applications will be grouped based on the Total Financial Composite Score. Applicants must receive a Total Financial Composite Score of one (1), two (2), three (3), or four (4) to advance to Step 3. Applicants that receive a Total Financial Composite Score of five (5) will not advance to Step 3.

ii. Step 2(b): Compliance Risk Evaluation: For the compliance analysis, the CDFI Fund will evaluate the compliance risk of each Applicant using information provided in the Application as well as an Applicant's reporting history, reporting capacity, and performance risk with respect to the CDFI Fund's PG&Ms. Each Applicant will receive a Total Compliance Composite Score on a scale of one (1) to five (5), with one (1) being the highest rating. Applicants that receive an initial Total Compliance Composite Score of four (4) or five (5) will be confirmed by CDFI Fund Staff. If the Applicant is deemed a high compliance risk (score of a 4 or 5) after the CDFI Fund reviews, the Applicant will not advance to Step 3.

c. Step 3: Final Award Decision: The CDFI Fund will conduct a due diligence review to evaluate each CDFI Rapid Response Program Application to ensure its adherence with the CDFI Fund's policies and procedures as well as applicable Federal regulations. The due diligence review includes an analysis of programmatic risk factors including but not limited to financial stability; history of performance in managing Federal awards (including timeliness of reporting and compliance); audit or regulator findings; and the Applicant's ability to effectively implement Federal requirements. If an Applicant is found to be a significant risk as a result of this due diligence review, the CDFI Fund may eliminate the Applicant from consideration for a CDFI Rapid Response Program grant or may reduce the Applicant's award size. The CDFI Fund also reserves the right to reduce the award size for Applicants that have a CAMEL/CAMELS, or equivalent, rating of four (4) or Total Financial Composite Score of four (4) during the due diligence review.

d. Step 4: Award Amount Determination: The CDFI Fund determines an award amount for each Application using a formula-based approach based on the due diligence performed, the Applicant's requested amount, and certain other factors, including but not limited to, the Applicant's deployment track record, minimum award size, submission of audited financial statements, amount targeted to a Native Community, and funding availability. Award amounts may be reduced from the requested award amount as a result of the above factors. All approved Applicants will be awarded at least the minimum award amount noted in Table 2. Award sizes for Applicants without audited financial statements will be limited to no more than $200,000. The funding available will be split among successful Applicants using a formula approach that ensures the following: (i) an Applicant's final award amount does not exceed its requested award amount, (ii) an Applicant's final award amount does not exceed either (a) 150% of the dollar volume of its Total On-Balance Sheet Financial Products Closed in Eligible Markets and/or Target Markets for its most recent historic fiscal year, or (b) the minimum award size ($200,000), whichever is greater, (iii) an Applicant's final award amount does not exceed $200,000 if it does not have audited financial statements, (iv) an Applicant's award amount is adjusted based on the due diligence review, and (v) a minimum of $25 million of the total CDFI Rapid Response Program funds awarded are allocated to benefit Native Communities.

Based on the anticipated formula, the CDFI Fund does not anticipate that any applicant will receive the maximum award amount of $5 million. The award is dependent on the number of awards made, for example: if there are 510 awards, the estimated largest award would be $3.3 million; if there are 800 awards, the estimated largest award would be $1.8 million; and if there are 1,050 awards, the estimated largest award would be $1.4 million.

2. Regulated Institutions: The CDFI Fund will consider safety and soundness information from the Appropriate Federal or State Banking Agency. If the Applicant is a CDFI Depository Institution Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal or State Banking Agencies about both the CDFI Depository Institution Holding Company and the Certified CDFI Subsidiary Insured Depository Institution that will expend and carry out the award. If the Appropriate Federal or State Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether such concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested.

3. Non-Regulated Institutions: The CDFI Fund must ensure, to the maximum extent practicable, that Recipients which are non-regulated CDFIs are financially and managerially sound, and maintain appropriate internal controls (12 U.S.C. 4707(f)(1)(A) and 12 CFR 1805.800(b)). Further, the CDFI Fund must determine that an Applicant's capacity to operate as a CDFI and its continued viability will not be dependent upon assistance from the CDFI Fund (12 U.S.C. 4704(b)(2)(A)). If it is determined that the Applicant is incapable of meeting these requirements, the CDFI Fund reserves the right to deem the Applicant ineligible or terminate the award.

B. Anticipated Award Announcement: The CDFI Fund anticipates making the CDFI Rapid Response Program award announcement before September 30, 2021. However, the anticipated award Announcement Date is subject to change without notice.

C. Application Rejection: The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects an Applicant's eligibility for an award; adversely affects the Recipient's certification as a CDFI (to the extent that the award is conditional upon CDFI certification); adversely affects the CDFI Fund's evaluation or scoring of an Application; or indicates fraud or mismanagement on the Applicant's part. If the CDFI Fund determines any portion of the Application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If the changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information about the changes through its website. The CDFI Fund's award decisions are final, and there is no right to appeal decisions.

VI. Federal Award Administration Information

A. Award Notification: Each successful Applicant will receive an email ''notice of award'' notification from the CDFI Fund stating that its Application has been approved for an award. Each Applicant not selected for an award will receive an email stating that a debriefing notice has been provided in its AMIS account.

B. Assistance Agreement: Each Applicant selected to receive an award must enter into an Assistance Agreement with the CDFI Fund in order to receive a payment(s). The Assistance Agreement will set forth the award's terms and conditions, including but not be limited to the: (i) Award amount; (ii) award type; (iii) award uses; (iv) eligible use of funds; (v) PG&Ms; and (vi) reporting requirements. CDFI Rapid Response Program Assistance Agreements have two-year Periods of Performance.

1. Certificate of Good Standing: All CDFI Rapid Response Program Recipients that are not Regulated Institutions will be required to provide the CDFI Fund with a certificate of good standing from the secretary of state for the Recipient's jurisdiction of formation prior to closing. This certificate can often be acquired online on the secretary of state website for the Recipient's jurisdiction of formation and must generally be dated within 180 days prior to the date the Recipient executes the Assistance Agreement. Due to potential backlogs in state government offices, Applicants are advised to submit requests for certificates of good standing around the time they submit their Applications.

2. Closing: Pursuant to the Assistance Agreement, there will be an initial closing at which point the Assistance Agreement and related documents will be properly executed and delivered, and an initial payment CDFI Rapid Response Program funds may be made. The first payment is the estimated amount of the award that the Recipient states in its Application that it will use for eligible CDFI Rapid Response Program activities in the first 12 months after the award announcement. The CDFI Fund reserves the right to increase the first payment amount to ensure that any subsequent payment is at least $25,000.

The CDFI Fund will minimize the time between the Recipient incurring costs for eligible activities and award payment(s) in accordance with the Uniform Requirements. Advanced payments for eligible activities will occur no more than one year in advance of the Recipient incurring costs for the eligible activities. Following the initial closing, there may be subsequent closings involving additional award payments. There will be a limit of two additional award payments. Any documentation in addition to the Assistance Agreement that is connected with such subsequent closings and payments shall be properly executed and timely delivered by the Recipient to the CDFI Fund.

3. Requirements Prior to Entering into an Assistance Agreement: If, prior to entering into an Assistance Agreement, information (including administrative errors) comes to the CDFI Fund's attention that: Adversely affects the Recipient's eligibility for an award; adversely affects the Recipient's certification as a CDFI; adversely affects the CDFI Fund's evaluation of the Application; indicates that the Recipient is not in compliance with any requirement listed in the Uniform Requirements; indicates that the Recipient is not in compliance with a term or condition of a prior CDFI Fund award; indicates the Recipient has failed to execute and return a prior round Assistance Agreement to the CDFI Fund within the CDFI Fund's deadlines; or indicates fraud or mismanagement on the Recipient's part, the CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the award or take such other actions as it deems appropriate. The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient fails to return the Assistance Agreement, signed by the Authorized Representative of the Recipient, and/or provide the CDFI Fund with any requested documentation, within the CDFI Fund's deadlines.

In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA pending the criteria described in the following table:

TABLE 7—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT

Requirement	Criteria
Failure to meet reporting requirements	• If a Recipient received a prior award under any CDFI Fund program and is not in compliance with the reporting requirements of the previously executed agreement(s), the CDFI Fund may delay entering into an Assistance Agreement or disbursing an award until such reporting requirements are met. If the Recipient is unable to meet the requirement(s) within the timeframe specified by the CDFI Fund, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA. • The automated systems the CDFI Fund uses only acknowledge a report's receipt and are not a determination of meeting reporting requirements.
Failure to maintain CDFI Certification	• A CDFI Rapid Response Program Recipient must be a Certified CDFI. • If a CDFI Rapid Response Program Recipient fails to maintain CDFI certification, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.
Pending resolution of noncompliance	• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending noncompliance issues with any of its previously executed CDFI award agreement(s), if the CDFI Fund has not yet made a final compliance determination. • If the Recipient is unable to satisfactorily resolve the compliance issues, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Noncompliance or default status	• If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that a Recipient is noncompliant or found in default with any previously executed award agreement(s), and the CDFI Fund has provided written notification that the Recipient is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may delay entering into an Assistance Agreement until the Recipient has cured the noncompliance by taking actions the CDFI Fund has specified within such specified timeframe. If the Recipient is unable to cure the noncompliance within the specified timeframe, the CDFI Fund may terminate and rescind the Assistance Agreement and the award made under this NOFA.
Compliance with Federal civil rights requirements.	• If, prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last three years, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the Recipient has violated the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975, (42 U.S.C. 6101–6107), and Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, the CDFI Fund will terminate and rescind the Assistance Agreement and the award made under this NOFA.
Do Not Pay	• The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government. • The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient (or Affiliate of a Recipient) is determined to be ineligible based on data in the Do Not Pay database.
Safety and soundness	• If it is determined the Recipient is, or will be, incapable of meeting its award obligations, the CDFI Fund will deem the Recipient to be ineligible, or require it to improve its safety and soundness prior to entering into an Assistance Agreement.

C. Reporting:

1. Reporting Requirements: On an annual basis during the Period of Performance, the CDFI Fund may collect information from each Recipient including, but not limited to, an Annual Report with the following components (Annual Reporting Requirements):

TABLE 8—ANNUAL REPORTING REQUIREMENTS *

Financial Statement Audit Report (Non-profit Recipient including Insured Credit Unions and State-Insured Credit Unions).	A Non-profit Recipient (including Insured Credit Unions and State-Insured Credit Unions) must submit a Financial Statement Audit (FSA) Report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant, if any are prepared. Under no circumstances should this be construed as the CDFI Fund requiring the Recipient to conduct or arrange for additional audits not otherwise required under Uniform Requirements or otherwise prepared at the request of the Recipient or parties other than the CDFI Fund.
Financial Statement Audit Report (For-Profit Recipient).	For-profit Recipients must submit a FSA Report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant.
Financial Statement Audit Report (Depository Institution Holding Company and Insured Depository Institution).	If the Recipient is a Depository Institution Holding Company or an Insured Depository Institution, it must submit a FSA Report in AMIS.

TABLE 8—ANNUAL REPORTING REQUIREMENTS *—Continued

Single Audit Report (Non-Profit Recipients, if applicable).	A non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (see 2 CFR Subpart F—Audit Requirements) if it expends $750,000 or more in Federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 CFR 200.501. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) (see 2 CFR Subpart F—Audit Requirements in the Uniform Requirements) and optionally through AMIS.
Transaction Level Report (TLR)	The Recipient must submit a TLR to the CDFI Fund through AMIS. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its CDFI Rapid Response Program grant through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a TLR. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the CDFI Rapid Response Program grant, the Depository Institution Holding Company must submit a TLR.
Uses of Award Report	The Recipient must submit the Uses of Award Report to the CDFI Fund in AMIS. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its CDFI Rapid Response Program grant through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Uses of Award Report. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the CDFI Rapid Response Program grant, the Depository Institution Holding Company must submit a Uses of Award Report.
Performance Progress Report	The Recipient must submit the Performance Progress Report through AMIS. If the Recipient is a Depository Institution Holding Company that deploys all or a portion of its CDFI Rapid Response Program grant through its Subsidiary CDFI Insured Depository Institution, that Subsidiary CDFI Insured Depository Institution must also submit a Performance Progress Report. Furthermore, if the Depository Institution Holding Company itself deploys any portion of the CDFI Rapid Response Program grant, the Depository Institution Holding Company must submit a Performance Progress Report.

* Personally Identifiable Information (PII) is information, which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Although Applicants are required to enter addresses of individual borrowers/residents of Distressed Communities in AMIS, Applicants should *not* include the following PII for the individuals who received the Financial Products or Financial Services in AMIS or in the supporting documentation (*i.e.,* name of the individual, Social Security Number, driver's license or state identification number, passport number, Alien Registration Number, etc.). *This information should be redacted from all supporting documentation.*

The CDFI Fund may also collect data that will enable the Secretary of the Treasury to conduct a study of the impact of the CDFI Rapid Response Program. Reporting requirements will be outlined in the final CDFI Rapid Response Program Assistance Agreement and could include reporting beneficiary demographic data. Reporting requirements may be added or modified at any time at the discretion of the Secretary of the Treasury.

Each Recipient is responsible for the timely and complete submission of the Annual Reporting Requirements. The CDFI Fund reserves the right to contact the Recipient and additional entities or signatories to the Assistance Agreement to request additional information and/or documentation. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements of the Assistance Agreement and to assess the impact of the CDFI Rapid Response Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements, including increasing the scope and frequency of reporting, if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

2. Financial Management and Accounting: The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and conditions of the Federal award. These systems must be sufficient to permit the preparation of reports required by the CDFI Fund to ensure compliance with the terms and conditions of the CDFI Rapid Response Program, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions of the Federal award.

The cost principles used by Recipients must be consistent with Federal cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the CDFI Rapid Response Program grant. In addition, the CDFI Fund will require Recipients to: maintain effective internal controls; comply with applicable statutes, regulations, and the Assistance Agreement; evaluate and monitor compliance; take appropriate action when not in compliance; and safeguard personally identifiable information.

VII. Agency Contacts

A. The CDFI Fund will respond to questions concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time, starting on the date that the NOFA is published through the date listed in Table 1 and Table 6. The CDFI Fund strongly recommends Applicants submit questions to the CDFI Fund via an AMIS Service Request to the CDFI Program, Office of Certification, Compliance Monitoring and Evaluation, or IT Help Desk. The CDFI Fund will post on its website information to clarify the NOFA and Application. Other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *http://www.cdfifund.gov.* Table 9 lists CDFI Fund contact information:

TABLE 9—CONTACT INFORMATION

Type of question	Preferred method	Telephone number (not toll free)	Email addresses
CDFI Rapid Response Program Questions for the CDFI Program.	Service Request via AMIS	202–653–0421, option 1	*cdfihelp@cdfi.treas.gov.*
CCME	Service Request via AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
AMIS—IT Help Desk	Service Request via AMIS	202–653–0422	*AMIS@cdfi.treas.gov.*

B. Information Technology Support: For IT assistance, the preferred method of contact is to submit a Service Request within AMIS. For the Service Request, select ''Technical Issues'' from the Program dropdown menu of the Service Request. People who have visual or mobility impairments that prevent them from using the CDFI Fund's website should call (202) 653–0422 for assistance (this is not a toll free number).

C. Communication with the CDFI Fund: The CDFI Fund will use the contact information in AMIS to communicate with Applicants and Recipients. It is imperative, therefore, that Applicants, Recipients, Subsidiaries, Affiliates, and signatories maintain accurate contact information in their accounts. This includes information such as contact names (especially for the Authorized Representative), email addresses, fax and phone numbers, and office locations.

D. Civil Rights and Diversity: Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Diversity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with: Associate Chief Human Capital Officer, Office of Civil Rights, and Diversity, 1500 Pennsylvania Ave. NW, Washington, DC 20220 or (202) 622–1160 (not a toll-free number).

E. Statutory and National Policy Requirements: The CDFI Fund will manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, Federal Law, statutory, and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

VIII. Other Information

A. Paperwork Reduction Act: Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the CDFI Rapid Response Program Application has been assigned the following control number: 1559–0021.

B. Application Information Sessions: The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, visit the CDFI Fund's website at *http://www.cdfifund.gov.*

Authority: Pub. L. 116–260; 12 U.S.C. 4701, et *seq.;* 12 CFR parts 1805 and 1815; 2 CFR part 200.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2021–04034 Filed 2–25–21; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Preparer Hardship Waiver Request and Preparer Explanation for Not Filing Electronically

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury 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. The public is invited to submit comments on these requests.

DATES: Comments must be received on or before March 29, 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.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Preparer Hardship Waiver Request and Preparer Explanation for Not Filing Electronically.

OMB Control Number: 1545–2200.

Type of Review: Extension of a currently approved collection.

Description: A tax preparer uses Form 8944 to request a waiver from the requirement to file tax returns on magnetic media when the filing of tax returns on magnetic media would cause a hardship. A specified tax return preparer uses Form 8948 to explain which exception applies when a covered return is prepared and filed on paper.

Form: IRS Form 8944 and IRS Form 8948.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 8,910,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 8,910,000.

Estimated Time per Response: 7.99 hours for Form 8944 and 1.99 hours for Form 8948.

Estimated Total Annual Burden Hours: 18,270,900 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: February 22, 2021.

Molly Stasko,

Treasury PRA Clearance Officer.

[FR Doc. 2021–03944 Filed 2–25–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0768]

Agency Information Collection Activity Under OMB Review: Program of Comprehensive Assistance for Family Caregivers Improvements and Amendments Under the VA MISSION Act of 2018

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0768.''

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. 2900–0768'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Program of Comprehensive Assistance for Family Caregivers Improvements and Amendments Under the VA MISSION Act of 2018, VA Form 10–10CG.

OMB Control Number: 2900–0768.

Type of Review: Revision of a currently approved collection.

Abstract: Pursuant to RIN 2900–AQ48, the Department of Veterans Affairs (VA) has proposed revisions to its regulations that govern VA's Program of Comprehensive Assistance for Family Caregivers (PCAFC). This rulemaking would make improvements to PCAFC and update the regulations to comply with section 161 of Public Law 115–182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks (MISSION) Act of 2018, or the VA MISSION Act of 2018, which made changes to PCAFC's authorizing statute. These proposed changes would allow PCAFC to better address the needs of veterans of all eras and standardize the current program to focus on eligible veterans with moderate and severe needs.

This proposed rule—

- Would expand PCAFC to eligible veterans of all service eras, as specified.
- Would define new terms and revise existing terms used throughout the regulation. Some of the new and revised terms would have a substantial impact on eligibility requirements for PCAFC (*e.g.,* in need of personal care services; need for supervision, protection, or instruction; and serious injury), and the benefits available under PCAFC (*e.g.,* financial planning services, legal services, and monthly stipend rate).
- Would establish an annual reassessment to determine continued eligibility for PCAFC.
- Would revise the stipend payment calculation for Primary Family Caregivers.

□ Would establish a transition plan for legacy participants and legacy applicants who may or may not meet the new eligibility criteria and whose Primary Family Caregivers could have their stipend amount impacted by changes to the stipend payment calculation.

□ Would add financial planning and legal services as new benefits available to Primary Family Caregivers.

- Would revise the process for revocation and discharge from PCAFC.
- Would reference VA's ability to collect overpayments made under PCAFC.

The background for PCAFC and this information collection resides in Title I of Public Law (Pub. L.) 111–163, Caregivers and Veterans Omnibus Health Services Act of 2010 (hereinafter referred to as ''the Caregivers Act''), which established section 1720G(a) of title 38 of the United States Code (U.S.C.) ''Assistance and Support Services for Caregivers.'' Section 1720G required VA to establish a Program of Comprehensive Assistance for Family Caregivers (PCAFC) of eligible veterans. The Caregivers Act also required VA to establish a Program of General Caregiver Support Services (PGCSS) that is available to caregivers of covered veterans of all eras. VA implemented the PCAFC and the PGCSS through its regulations in part 71 of title 38 of the Code of Federal Regulations (CFR). Through PCAFC, VA provides family caregivers of eligible veterans (as defined in 38 CFR 71.15) certain benefits, such as training, respite care, counseling, technical support, beneficiary travel (to attend required caregiver training and for an eligible veteran's medical appointments), a monthly stipend payment, and access to health care coverage (if qualified) through the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA). 38 U.S.C. 1720G(a)(3), 38 CFR 71.40.

In order to administer these benefits to caregivers, it is necessary that the VA receive information about the nature of benefit being sought and the persons who will be serving as primary or secondary family caregivers and receiving benefits. This information is collected with VA Form 10–10CG, which is currently approved under Office of Management and Budget (OMB) Control Number 2900–0768. Additional information will be collected by VA when a participating veteran provides required notice of a change of address and will be added to OMB Control Number 2900–0768.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 85 FR 136 on July 15, 2020, pages 42983 and 42984.

VA Form 10–10CG

Affected Public: Individuals and households.

Estimated Annual Burden: 15,694 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Once annually.

Estimated Annual Number of Respondents: 62,776.

Veteran Change of Address Notification

Affected Public: Individuals and households.

Estimated Annual Burden: 542 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Annual Number of Respondents: 3,250.

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. 2021–04012 Filed 2–25–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0530]

Agency Information Collection Activity: 36.4350—Servicing Procedures for Holders

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans 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 27, 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. 2900–0530'' 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. 2900–0530'' 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: Collection of Information Under 38 CFR 36.4350.

OMB Control Number: OMB 2900–0530.

Type of Review: Reinstatement.

Abstract: The Department of Veterans Affairs (VA) Loan Guaranty program guarantees loans made by private lenders to veterans for the purchase, construction, and refinancing of homes owned and occupied by veterans. Under 38 CFR 36.4350, a holder of a loan guaranteed or insured by the VA is required to develop and maintain a loan servicing program.

Affected Public: Individuals (employees of servicers making applications).

Estimated Annual Burden: 63 hours.

Estimated Average Burden per Respondent: 1 minute.

Frequency of Response: One-time.

Estimated Number of Respondents: 427.

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. 2021–04054 Filed 2–25–21; 8:45 am]

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FEDERAL REGISTER

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Part II

The President

National Security Memorandum/NSM–4 of February 4, 2021—Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the World

Federal Register
Vol. 86, No. 37
Friday, February 26, 2021

Presidential Documents

Title 3—

The President

National Security Memorandum/NSM–4 of February 4, 2021

Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the World

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Secretary of Defense[,] the Attorney General[,] the Secretary of Agriculture[,] the Secretary of Commerce[,] the Secretary of Labor[,] the Secretary of Health and Human Services[,] the Secretary of Homeland Security[,] the United States Trade Representative[,] the Assistant to the President for National Security Affairs[,] the Assistant to the President and Counsel to the President[,] the Administrator of the United States Agency for International Development[, and] the Chief Executive Officer, Millennium Challenge Corporation

This memorandum reaffirms and supplements the principles established in the Presidential Memorandum of December 6, 2011 (International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons). That memorandum, for the first time, directed agencies engaged abroad to ensure that U.S. diplomacy and foreign assistance promote and protect the human rights of lesbian, gay, bisexual, and transgender persons everywhere. This memorandum builds upon that historic legacy and updates the 2011 Memorandum.

All human beings should be treated with respect and dignity and should be able to live without fear no matter who they are or whom they love. Around the globe, including here at home, brave lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) activists are fighting for equal protection under the law, freedom from violence, and recognition of their fundamental human rights.

The United States belongs at the forefront of this struggle—speaking out and standing strong for our most dearly held values. It shall be the policy of the United States to pursue an end to discrimination on the basis of sexual orientation, gender identity or expression, or sex characteristics, and to lead by the power of our example in the cause of advancing the human rights of LGBTQI+ persons around the world.

By this memorandum I am directing all agencies engaged abroad to ensure that U.S. diplomacy and foreign assistance promote and protect the human rights of LGBTQI+ persons. Specifically, I direct the following actions, consistent with applicable law:

Section 1. *Combating Criminalization of LGBTQI+ Status or Conduct Abroad.* Agencies engaged abroad are directed to strengthen existing efforts to combat the criminalization by foreign governments of LGBTQI+ status or conduct and expand efforts to combat discrimination, homophobia, transphobia, and intolerance on the basis of LGBTQI+ status or conduct. The Department of State shall, on an annual basis and as part of the annual report submitted to the Congress pursuant to sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d) and 2304(b)), report on human rights abuses experienced by LGBTQI+ persons globally. This reporting shall include anti-LGBTQI+ laws as well as discrimination and violence committed by both state and non-state actors against LGBTQI+ persons.

Sec. 2. *Protecting Vulnerable LGBTQI+ Refugees and Asylum Seekers.* LGBTQI+ persons who seek refuge from violence and persecution face daunting challenges. In order to improve protection for LGBTQI+ refugees

and asylum seekers at all stages of displacement, the Departments of State and Homeland Security shall enhance their ongoing efforts to ensure that LGBTQI+ refugees and asylum seekers have equal access to protection and assistance, particularly in countries of first asylum. In addition, the Departments of State, Justice, and Homeland Security shall ensure appropriate training is in place so that relevant federal government personnel and key partners can effectively identify and respond to the particular needs of LGBTQI+ refugees and asylum seekers, including by providing to them adequate assistance and ensuring that the Federal Government takes all appropriate steps, such as potential increased use of Embassy Priority–1 referrals, to identify and expedite resettlement of highly vulnerable persons with urgent protection needs.

Sec. 3. *Foreign Assistance to Protect Human Rights and Advance Nondiscrimination.* Agencies involved with foreign aid, assistance, and development programs shall enhance their ongoing efforts to ensure regular federal government engagement with governments, citizens, civil society, and the private sector in order to build respect for the human rights of LGBTQI+ persons and combat discrimination. Agencies involved with foreign aid, assistance, and development programs should consider the impact of programs funded by the federal government on human rights, including the rights of LGBTQI+ persons, when making funding decisions, as appropriate and consistent with applicable law.

Sec. 4. *Swift and Meaningful U.S. Responses to Human Rights Abuses of LGBTQI+ Persons Abroad.* The Department of State shall lead a standing group, with appropriate interagency representation, to help ensure the federal government's swift and meaningful response to serious incidents that threaten the human rights of LGBTQI+ persons abroad. When foreign governments move to restrict the rights of LGBTQI+ persons or fail to enforce legal protections in place, thereby contributing to a climate of intolerance, agencies engaged abroad shall consider appropriate responses, including using the full range of diplomatic tools and, as appropriate, sanctions, visa bans, and other actions.

Sec. 5. *Building Coalitions of Like-Minded Nations and Engaging International Organizations in the Fight Against LGBTQI+ Discrimination.* Bilateral relationships with allies and partners, as well as multilateral fora and international organizations, are key vehicles to promote respect for and protection of the human rights of LGBTQI+ persons and to bring global attention to these goals. Agencies engaged abroad should strengthen the work they have done and initiate additional efforts with other nations, bilaterally and within multilateral fora and international organizations, to: counter discrimination on the basis of LGBTQI+ status or conduct; broaden the number of countries willing to support and defend the human rights of LGBTQI+ persons; strengthen the role, including in multilateral fora, of civil society advocates on behalf of the human rights of LGBTQI+ persons; and strengthen the policies and programming of multilateral institutions, including with respect to protecting vulnerable LGBTQI+ refugees and asylum seekers.

Sec. 6. *Rescinding Inconsistent Policies and Reporting on Progress.* Within 100 days of the date of this memorandum or as soon as possible thereafter, all agencies engaged abroad shall review and, as appropriate and consistent with applicable law, take steps to rescind any directives, orders, regulations, policies, or guidance inconsistent with this memorandum, including those issued from January 20, 2017, to January 20, 2021, to the extent that they are inconsistent with this memorandum. The heads of such agencies shall also, within 100 days of the date of this memorandum, report to the President on their progress in implementing this memorandum and recommend additional opportunities and actions to advance the human rights of LGBTQI+ persons around the world. Agencies engaged abroad shall each prepare a report within 180 days of the date of this memorandum, and annually thereafter, on their progress toward advancing these initiatives. All such

agencies shall submit these reports to the Department of State, which will compile a report on the federal government's progress in advancing these initiatives for transmittal to the President. The Department of State shall make a version of the compiled annual report available to the Members of the Congress and the public.

Sec. 7. *Definitions.* (a) For the purposes of this memorandum, agencies engaged abroad include the Departments of State, the Treasury, Defense, Justice, Agriculture, Commerce, Labor, Health and Human Services, and Homeland Security, the United States Agency for International Development (USAID), the United States International Development Finance Corporation (DFC), the Millennium Challenge Corporation, the Export-Import Bank of the United States, the Office of the United States Trade Representative, and such other agencies as the President may designate.

(b) For the purposes of this memorandum, agencies involved with foreign aid, assistance, and development programs include the Departments of State, the Treasury, Defense, Justice, Agriculture, Commerce, Labor, Health and Human Services, and Homeland Security, USAID, DFC, the Millennium Challenge Corporation, the Export-Import Bank of the United States, the Office of the United States Trade Representative, and such other agencies as the President may designate.

Sec. 8. *General Provisions.* (a) Nothing in this order shall be construed to impair, or otherwise affect:

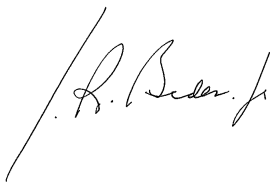
(i) the authority granted by law to an executive department, agency, or the head thereof; or

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

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

(c) This memorandum 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.

(d) The Secretary of State is authorized and directed to publish this memorandum in the *Federal Register*.



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