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# Contents

**Federal Register**

Vol. 86, No. 52

Friday, March 19, 2021

**Agriculture Department**
*See* Food Safety and Inspection Service
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14865

**Bureau of Consumer Financial Protection**
**RULES**
Policy Regarding Prohibition on Abusive Acts or Practices; Rescission, 14808–14810

**Centers for Disease Control and Prevention**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14918–14926
Charter Renewal:
Advisory Council for the Elimination of Tuberculosis, 14923–14924
Interagency Committee on Smoking and Health, 14923
Meetings:
Healthcare Infection Control Practices Advisory Committee; Correction, 14923
Requests for Nominations:
Healthcare Infection Control Practices Advisory Committee, 14921

**Centers for Medicare & Medicaid Services**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14926–14928

**Children and Families Administration**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Evaluation of Project Connect, 14928–14929
Evaluation of the Child Welfare Capacity Building Collaborative, 14930–14932
Human Services Programs in Rural Contexts Study, 14932
OCSE Stafford Act Flexibilities Request Form, 14929–14930
Renewal of the Low Income Home Energy Assistance Program Performance Measures, 14932–14934

**Commerce Department**
*See* Economic Development Administration
*See* Foreign-Trade Zones Board
*See* International Trade Administration
*See* National Institute of Standards and Technology
*See* National Oceanic and Atmospheric Administration
*See* National Telecommunications and Information Administration

**Committee for Purchase From People Who Are Blind or Severely Disabled**
**NOTICES**
Procurement List; Additions and Deletions, 14883–14885

**Corporation for National and Community Service**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application Package for Employers of National Service Enrollment Form and Survey, 14885

**Defense Acquisition Regulations System**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Defense Federal Acquisition Regulation Supplement; DFARS Part 249, Termination of Contracts, and a Related Clause at DFARS 252.249–7002, Notification of Anticipated Contract Termination or Reduction, 14886

**Defense Department**
*See* Defense Acquisition Regulations System
**PROPOSED RULES**
Federal Acquisition Regulation:
Extension of Limitations on Contractor Employee Personal Conflicts of Interest, 14862–14863
Organizational Conflicts of Interest, 14863
Protecting Life in Global Health Assistance, 14863
Small Business Set Asides for Research and Development Contracts, 14864

**Economic Development Administration**
**NOTICES**
Trade Adjustment Assistance; Determinations, 14867

**Education Department**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Safer Schools and Campuses Best Practices Clearinghouse, 14886–14887

**Energy Department**
*See* Federal Energy Regulatory Commission
**RULES**
Procedures for the Issuance of Guidance Documents, 14807–14808
**NOTICES**
Energy Conservation Program:
Decision and Order Granting a Waiver to Heat Transfer Products Group from the Walk-In Coolers and Walk-In Freezers Test Procedure, 14887–14891

**Environmental Protection Agency**
**RULES**
Air Quality State Implementation Plans; Approvals and Promulgations:
Michigan; Partial Approval and Partial Disapproval of the Detroit Sulfur Dioxide Nonattainment Area Plan, 14827–14832
Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes:
California; South Coast Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 $PM_{2.5}$ NAAQS, 14832–14834

Federal Aluminum Aquatic Life Criteria Applicable to Oregon, 14834–14846
Michigan Underground Injection Control Class II Program; Primacy Approval, 14846–14850
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Nebraska; Revisions to the Nebraska Administrative Code; Rules of Practice and Procedure, 14856–14858
Michigan Underground Injection Control Class II Program; Primacy Approval, 14858–14859
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Fuel Use Requirements for Great Lake Steamships, 14913–14914
Gathering Data on Results of Annual and Triennial Testing To Evaluate the Impacts of 2015 Federal Underground Storage Tank Regulation, 14914–14915
National Emission Standards for Hazardous Air Pollutants for Marine Tank Vessel Loading Operations, 14907–14908
New Source Performance Standards for Calciners and Dryers in Mineral Industries, 14915–14916
Pollution Prevention Awards Program, 14910
Survey of State Emergency Response Commissions, 14909–14910
User Fees for the Administration of the Toxic Substances Control Act, 14904–14905
Application:
Pesticide Experimental Use Permit; Comment Request March 2021, 14906–14907
Environmental Impact Statements; Availability, etc.:
Weekly Receipt, 14908–14909
FY2021 Supplemental Funding for Brownfields Revolving Loan Fund Cooperative Agreement Recipients, 14905–14906
Meetings:
Children's Health Protection Advisory Committee, 14909
White House Environmental Justice Advisory Council, 14916–14917
Privacy Act; System of Records, 14910–14913

**Federal Aviation Administration**
RULES
Special Conditions:
Lufthansa Technik, Boeing Model 787–8 Airplane; Installation of Large, Non-Structural Glass in the Passenger Cabin, 14810–14812

**Federal Communications Commission**
RULES
Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements; Correction, 14851
Schedule of Application Fees of the Commission's Rules, 15026–15067
PROPOSED RULES
Telecommunications Relay Services Fund Contributions, 14859–14862

**Federal Emergency Management Agency**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 14938–14939
National Fire Incident Reporting System v5.0, 14941–14942
Non-Disaster Grants System, 14942–14943
Emergency and Related Determinations:
Texas, 14943–14944
Emergency Declaration:
District of Columbia; Amendment No. 1, 14940–14941
District of Columbia; Amendment No. 2, 14939–14940
Oklahoma; Amendment No. 1, 14940
Texas; Amendment No. 1, 14940
Major Disaster Declaration:
New Jersey; Amendment No. 3, 14943
Puerto Rico; Amendment No. 4, 14944
Virgin Islands; Amendment No. 4, 14942

**Federal Energy Regulatory Commission**
NOTICES
Combined Filings, 14891–14895, 14897–14898
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
Assembly Solar II, LLC, 14900–14901
Citadel Solar, LLC, 14895
Diamond Energy ISONE, LLC; Supplemental, 14893
Diamond Energy NYISO, LLC; Supplemental, 14901
Diamond Energy PJM, LLC; Supplemental, 14898
Diamond Retail Energy, LLC; Supplemental, 14894
Edwards Sanborn Storage II, LLC, 14893–14894
Edwards Solar 1A, LLC; Supplemental, 14896–14897
Sanborn Solar 1A, LLC; Supplemental, 14900
Valley Center ESS, LLC, 14901
Scoping Period Requesting Comments on Environmental Issues:
Florida Gas Transmission Company, LLC; Big Bend Project, 14902–14904
Technical Conference:
Climate Change, Extreme Weather, and Electric System Reliability, 14895–14896
Under Blanket Authorization and Establishing Intervention and Protest Deadline:
ANR Pipeline Company, 14898–14900

**Federal Financial Institutions Examination Council**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 14917

**Federal Motor Carrier Safety Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property, 15019–15020
Motor Carrier Records Change Form, 15018–15019

**Federal Reserve System**
NOTICES
Change in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 14918
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 14917–14918

**Food and Drug Administration**
RULES
New Animal Drugs:
Approval of New Animal Drug Applications; Changes of Sponsorship; Change of Sponsor's Name and Address, 14815–14827

**Food Safety and Inspection Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Consumer Complaint Monitoring System; Revision, 14865–14867

**Foreign-Trade Zones Board**
NOTICES
Proposed Production Activity:
AstraZeneca Pharmaceuticals, LP, Foreign-Trade Zone 99, Wilmington, DE, 14867–14868

**General Services Administration**
PROPOSED RULES
Federal Acquisition Regulation:
Extension of Limitations on Contractor Employee Personal Conflicts of Interest, 14862–14863
Organizational Conflicts of Interest, 14863
Protecting Life in Global Health Assistance, 14863
Small Business Set Asides for Research and Development Contracts, 14864

**Health and Human Services Department**
*See* Centers for Disease Control and Prevention
*See* Centers for Medicare & Medicaid Services
*See* Children and Families Administration
*See* Food and Drug Administration
*See* National Institutes of Health

**Homeland Security Department**
*See* Federal Emergency Management Agency
*See* U.S. Citizenship and Immigration Services
*See* U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Vulnerability Discovery Program, 14944–14945

**Housing and Urban Development Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Federal Housing Administration-Insured Mortgage Loan Servicing of Delinquent, Default, and Foreclosure with Service Members Act, 14956
Fair Market Rents for the Housing Choice Voucher Program, Moderate Rehabilitation Single Room Occupancy Program, and Other Programs Fiscal Year 2021, 14953–14955
Semi-Annual Labor Standards Enforcement Report; Local Contracting Agencies, 14952–14953
Transfer and Consolidation of Public Housing Programs, 14955–14956

**Interior Department**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance for Crowdsourcing and Citizen Science Activities, 14956–14957

**International Trade Administration**
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Corrosion Inhibitors From the People's Republic of China, 14869–14871
Diamond Sawblades and Parts Thereof From the People's Republic of China, 14868–14869, 14873–14876
Granular Polytetrafluoroethylene Resin From India and the Russian Federation, 14871–14872
Welded Carbon Steel Standard Pipes and Tubes From India, 14872–14873

**International Trade Commission**
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Granular Polytetrafluoroethylene Resin From India and Russia, 14957–14958

**Justice Department**
*See* Justice Programs Office

**Justice Programs Office**
NOTICES
Meetings:
Global Justice Information Sharing Initiative Federal Advisory Committee, 14958

**National Aeronautics and Space Administration**
PROPOSED RULES
Federal Acquisition Regulation:
Extension of Limitations on Contractor Employee Personal Conflicts of Interest, 14862–14863
Organizational Conflicts of Interest, 14863
Protecting Life in Global Health Assistance, 14863
Small Business Set Asides for Research and Development Contracts, 14864

**National Institute of Standards and Technology**
NOTICES
Meetings:
Advisory Committee on Earthquake Hazards Reduction, 14877–14878
Request for Comments:
National Voluntary Laboratory Accreditation Program; Proposed Revisions to the Personal Body Armor Laboratory Accreditation Program, 14876–14877

**National Institutes of Health**
NOTICES
Meetings:
Center for Scientific Review, 14935–14937
Center for Scientific Review; Cancellation, 14937
National Institute of Allergy and Infectious Diseases, 14934–14936
National Institute of Diabetes and Digestive and Kidney Diseases, 14936–14937
National Institute of Environmental Health Science, 14935
National Institute of Neurological Disorders and Stroke, 14934
National Institute on Aging, 14935
National Institute on Drug Abuse, 14937
National Library of Medicine, 14935

**National Oceanic and Atmospheric Administration**
RULES
Fisheries of the Exclusive Economic Zone Off Alaska:
Central Gulf of Alaska Rockfish Program; Modify Season Start Date, 14851–14855
NOTICES
Application:
Marine Mammals; File No. 25500, 14878

Meetings:
Mid-Atlantic Fishery Management Council, 14880
National Sea Grant Advisory Board, 14880–14881
North Pacific Fishery Management Council, 14881–14882
Pacific Fishery Management Council, 14878–14880
South Atlantic Fishery Management Council, 14881

**National Science Foundation**
**NOTICES**
Interagency Arctic Research Policy Committee Draft Arctic Research Plan, 14958–14959

**National Telecommunications and Information Administration**
**NOTICES**
Meetings:
Broadband Grant Programs Webinar Series, 14882–14883

**Nuclear Regulatory Commission**
**NOTICES**
Enhancing Participation in Public Meetings, 14964–14968
Environmental Assessments; Availability, etc.:
NextEra Energy Duane Arnold, LLC; Duane Arnold Energy Center, 14960–14963
Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities, 14959–14960
Transfer of License:
LaCrosseSolutions, LLC; La Crosse Boiling Water Reactor, 14963–14964

**Securities and Exchange Commission**
**NOTICES**
Application:
Security-Based Swap Data Repositories; ICE Trade Vault, LLC, 14968–14974
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BZX Exchange, Inc., 14987–15015
Investors Exchange LLC, 15015–15018
MIAX PEARL, LLC, 14974–14980
NYSE Arca, Inc, 14980–14987

**Small Business Administration**
**NOTICES**
Surrender of License of Small Business Investment Company:
Argosy Investment Partners III, L.P., 15018

**State Department**
**NOTICES**
Meetings:
Advisory Committee on Historical Diplomatic Documentation, 15018

**Transportation Department**
*See* Federal Aviation Administration
*See* Federal Motor Carrier Safety Administration
*See* Transportation Statistics Bureau

**Transportation Statistics Bureau**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Report of Financial and Operating Statistics for Small Aircraft Operators, 15020–15021

**Treasury Department**
**NOTICES**
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 15021–15023

**U.S. Citizenship and Immigration Services**
**NOTICES**
Extension and Redesignation of Syria for Temporary Protected Status, 14946–14952

**U.S. Customs and Border Protection**
**RULES**
Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Canada, 14812–14813
Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico, 14813–14815
**NOTICES**
Application To Use Automated Commercial Environment, 14937–14938

**Veterans Affairs Department**
**NOTICES**
Meetings:
Voluntary Service National Advisory Committee, 15023

---

**Separate Parts In This Issue**

**Part II**
Federal Communications Commission, 15026–15067

---

**Reader Aids**

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

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## CFR PARTS AFFECTED IN THIS ISSUE

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


**10 CFR**
1061 ..... 14807

**12 CFR**
Ch. X ..... 14808

**14 CFR**
25 ..... 14810

**19 CFR**
Ch. I (2 documents) ..... 14812, 14813

**21 CFR**
510 ..... 14815
520 ..... 14815
522 ..... 14815
524 ..... 14815
529 ..... 14815
556 ..... 14815
558 ..... 14815

**40 CFR**
52 ..... 14827
81 ..... 14832
131 ..... 14834
147 ..... 14846

**Proposed Rules:**
52 ..... 14856
147 ..... 14858

**47 CFR**
1 ..... 15026
73 ..... 14851

**Proposed Rules:**
64 ..... 14859

**48 CFR**

**Proposed Rules:**
1 (6 documents) ..... 14862, 14863
2 (3 documents) ..... 14863
3 (6 documents) ..... 14862, 14863
4 (3 documents) ..... 14863
7 (6 documents) ..... 14863
9 (3 documents) ..... 14863
11 (3 documents) ..... 14863
12 (6 documents) ..... 14862, 14863
13 (3 documents) ..... 14863
14 (3 documents) ..... 14863
15 (3 documents) ..... 14863
16 (3 documents) ..... 14863
18 (3 documents) ..... 14863
19 (3 documents) ..... 14864
25 (3 documents) ..... 14863
35 (3 documents) ..... 14864
37 (3 documents) ..... 14863
42 (3 documents) ..... 14863
44 (3 documents) ..... 14863
52 (9 documents) ..... 14862, 14863
53 (3 documents) ..... 14863

**50 CFR**
679 ..... 14851

# Rules and Regulations

Federal Register
Vol. 86, No. 52
Friday, March 19, 2021

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 ENERGY

### 10 CFR Part 1061

**RIN 1990–AA50**

### Procedures for the Issuance of Guidance Documents

**AGENCY:** Office of General Counsel, Department of Energy.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** This document further delays the effective date of a recently published final rule establishing procedures for the issuance of Department of Energy (DOE) guidance documents.

**DATES:** The effective date of the rule establishing 10 CFR part 1061 published January 6, 2021, at 86 FR 451, and delayed to March 21, 2021 at 86 FR 7799, February 2, 2021, is further delayed to June 17, 2021.

**FOR FURTHER INFORMATION CONTACT:** Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** On February 2, 2021, the United States Department of Energy (''DOE'') postponed the effective date of its final rule establishing procedures for the issuance of DOE guidance documents, published in the **Federal Register** on January 6, 2021 (86 FR 451), until March 21, 2021 (86 FR 7799, February 2, 2021). The January 6, 2021, rule implemented Executive Order 13891 (84 FR 55235), which the President revoked on January 20, 2021, in Executive Order 13992 (86 FR 7049). Executive Order 13992 directed the Director of the Office of Management and Budget and the heads of agencies to promptly take steps to rescind any rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing Executive Order 13891, among other Executive orders, as appropriate and consistent with applicable law, including the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* DOE's delay of the effective date of its January 6, 2021, guidance rule was necessary to give DOE officials the opportunity to promptly take steps to rescind the rule as directed by Executive Order 13992. DOE also sought comment on any further delay of the effective date, including the impacts of such delay, as well as comment on the legal, factual, or policy issues raised by the rule. DOE received no comments on these issues.

DOE intends to publish a separate notice of proposed rulemaking in the future to withdraw the January 6, 2021, guidance rule. Further delay of the effective date of the guidance rule is necessary to allow DOE to consider comments on the proposed withdrawal and further review its regulations in light of Executive Order 13992 before the rule goes into effect. Accordingly, DOE delays the effective date of 10 CFR part 1061 to June 17, 2021.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, DOE's implementation of this action without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), DOE has determined that good cause exists to forego the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary or contrary to the public interest. As an initial matter, DOE provided an opportunity for comment related to the earlier extension of the effective date, and no comments were submitted. Further, DOE has tentatively concluded that, if it goes into effect, the January 6, 2021 final rule will hinder DOE in providing timely guidance in furtherance of DOE's statutory duties. The final rule will in particular hinder DOE's ability to address the economic recovery and climate change challenges enumerated in Executive Order 13992. As discussed in the Executive Order, agencies must have flexibility to timely and effectively address these challenges. The procedures of 10 CFR part 1061 are not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), and they limit the regulatory tools available to DOE to address the challenges listed in Executive Order 13992. Part 1061 deprives DOE of flexibility in determining when and how best to issue guidance based on particular facts and circumstances, and restricts DOE's ability to provide timely guidance on which the public can confidently rely.

In addition, DOE's stated purpose in issuing part 1061 was to promote transparency and public involvement in the development and amendment of DOE guidance documents. DOE notes, however, that its procedures for public transparency and involvement in the development of agency guidance documents will remain unchanged by withdrawal of part 1061. DOE guidance documents will continue to be available on DOE's website. DOE will also continue its practice, as appropriate, of soliciting stakeholder input on guidance documents of significant stakeholder and public interest. Additionally, stakeholders may still petition DOE at any time to issue, withdraw or revise DOE guidance documents, or inquire about DOE guidance documents, by emailing petitions or inquiries to *Guidance@hq.doe.gov.* The benefits of binding DOE to the procedures of part 1061 therefore appear outweighed by the need for DOE to have the ability to issue guidance timely and effectively to address the challenges listed in the Executive Order, and otherwise to meet its statutory duties. Moreover, DOE notes that guidance, whether issued under part 1061 or otherwise, is non-binding, and does not have the force and effect of law.

As a result, seeking public comment on this delay is unnecessary and contrary to the public interest. For these same reasons DOE finds good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

### Signing Authority

This document of the Department of Energy was signed on March 13, 2021, by John T. Lucas, Acting General Counsel, Office of the General Counsel, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal

Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 15, 2021.

**Treena V. Garrett,**

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

[FR Doc. 2021–05585 Filed 3–18–21; 8:45 am]

**BILLING CODE 6450–01–P**

## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Chapter X

### Statement of Policy Regarding Prohibition on Abusive Acts or Practices; Rescission

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Rescission of statement of policy.

**SUMMARY:** The Bureau of Consumer Financial Protection is rescinding the Statement of Policy Regarding Prohibition on Abusive Acts or Practices.

**DATES:** This rescission of the policy statement published at 85 FR 6733 on February 6, 2020, is applicable on March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Mehul Madia, Division of Supervision, Enforcement, and Fair Lending, at (202) 435–7104. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

**SUPPLEMENTARY INFORMATION:** Section 1031(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provides that the Bureau of Consumer Financial Protection (Bureau) may use its authorities, among other things, to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.[1] Section 1031(d) of the Dodd-Frank Act sets forth standards for when the Bureau may declare that an act or practice is abusive for purposes of the Dodd-Frank Act.

On January 24, 2020, the Bureau announced a policy statement entitled ''Statement of Policy Regarding Prohibition on Abusive Acts or Practices'' (Policy Statement), which provided a framework for the Bureau's exercise of its supervisory and enforcement authority to address abusive acts or practices.[2] Specifically, the Policy Statement provided that the Bureau intended to apply the following three principles during its supervision and enforcement work. *First,* the Bureau stated that it intended to focus on citing conduct as abusive in supervision or challenging conduct as abusive in enforcement if the Bureau concluded that the harms to consumers from the conduct outweighed its benefits to consumers.[3] *Second,* the Bureau stated that it would generally avoid challenging conduct as abusive that relied on all or nearly all of the same facts that the Bureau alleged are unfair or deceptive.[4] The Bureau stated that where it nevertheless decided to include an alleged abusiveness violation, the Bureau intended to plead such claims in a manner designed to clearly demonstrate the nexus between the cited facts and the Bureau's legal analysis of the claim. The Bureau stated that, in its supervision activity, the Bureau similarly intended to provide more clarity as to the specific factual basis for determining that a covered person had violated the abusiveness standard.[5] *Third,* the Bureau stated that it generally did not intend to seek certain types of monetary relief for abusiveness violations where the covered person was making a good-faith effort to comply with the abusiveness standard.[6]

The Bureau asserted that the Policy Statement was necessary to address the uncertainty of the abusiveness standard based on the Bureau's conclusions that such uncertainty was ''not beneficial,'' presented ''significant challenges'' to businesses, imposed ''substantial costs, including impeding innovation,'' and may cause consumers to ''lose the benefits of improved products or services and lower prices.''[7] As the Policy Statement referenced, some panelists at the Bureau's June 2019 Symposium on Abusive Acts or Practices urged the Bureau to resolve the abusiveness standard's uncertainty for these and other reasons,[8] while others expressed the view that the statutory definition of abusiveness is sufficiently clear and that no evidence supported the claims that the uncertainty had affected business practices, including chilling innovation.[9]

Based on its review of, and experience in applying, the Policy Statement, however, the Bureau has concluded that the principles set forth in the Policy Statement do not actually deliver clarity to regulated entities. In fact, the Policy Statement's intended principles, including ''making a good-faith effort to comply with the abusiveness standard,'' themselves afford the Bureau considerable discretion in its application and add uncertainty to market participants. Additionally, the Bureau's further consideration of and experience under the Policy Statement have led it to conclude that the intended principles have the effect of hampering certainty over time. Not asserting abusiveness claims solely because of their overlap with unfair or deceptive conduct or based on the other intended principles articulated in the Policy Statement has the effect of slowing the Bureau's ability to clarify the statutory abusiveness standard by articulating abusiveness claims as well as through the ensuing issuance of judicial and administrative decisions. It is thus counterproductive to the purpose of the original Policy Statement.

[1] Public Law 111–203, tit. X, sec. 1031(a), 124 Stat. 1376, 2005 (2010) (codified at 12 U.S.C. 5531(a)); *see also* 12 U.S.C. 5536(a)(1)(B) (making it unlawful for any covered person or service provider to engage in any abusive act or practice).

[2] 85 FR 6733 (Feb. 6, 2020).

[3] *Id.* at 6736.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.* at 6735–36.

[8] *Id.* at 6735 n.16 (citing panelists from the Bureau's June 2019 Symposium on Abusive Acts or Practices).

[9] *See, e.g.,* Adam J. Levitin, ''*Abusive*'' *Acts and Practices: Towards a Definition?,* Written Submission Prepared for CFPB Symposium on ''Abusive'' at 6–7, 9, *https://files.consumerfinance.gov/f/documents/cfpb_levitin-written-statement_symposium-abusive.pdf* (arguing that the ''statutory language of the [Dodd-Frank Act] and the Bureau's enforcement actions to date provide a sense of the scope of 'abusive,''' that ''[t]he Bureau would do better to allow the term to be better defined through the common law process,'' and that ''there is no evidence that uncertainty on the issue is affecting business practices at all; the claims of certain trade associations on the matter are completely unsubstantiated''); Nicholas F.B. Smyth, presenting on behalf of Pennsylvania Attorney General Josh Shapiro, Statement submitted to the Bureau for the symposium on Abusive Acts or Practices at 1, 5 (June 25, 2019), *https://files.consumerfinance.gov/f/documents/cfpb_smyth-written-statement_symposium-abusive.pdf* (asserting that the abusiveness standard ''does not stifle innovation any more than the prohibitions on unfairness or deception do,'' and that ''[e]very time Congress creates a new standard, there is a period of time when some uncertainty may exist as to what conduct violates that standard and what does not. This is perfectly normal, and the Courts are well equipped to interpret new standards.'').

The Policy Statement also provided that the Bureau intended to focus on citing conduct as abusive in supervision and challenging conduct as abusive in enforcement if the Bureau concluded that the harms to consumers from the conduct outweighed its benefits to consumers. This principle was intended to ''ensure[ ] that the Bureau is committed to using its scarce resources to address conduct that harms consumers'' and to ensure consistency across supervisory and enforcement matters.[10] The Bureau has concluded, however, that there is no basis to treat application of the abusiveness standard differently from the normal considerations that guide the Bureau's general use of its enforcement and supervisory discretion. The Bureau also did not find this principle helpful in practice.

Moreover, based on its review of, and experience in applying, the Policy Statement, the Bureau has concluded that the principles set forth in the Policy Statement have the opposite effect on preventing harm. One of the Bureau's statutory objectives is ''ensuring that, with respect to consumer financial products and services . . . consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination.'' [11] Declining to apply the full scope of the statutory standard pursuant to the policy has a negative effect on the Bureau's ability to achieve its statutory objective of protecting consumers from abusive practices. In particular, the policy of declining to seek certain types of monetary relief for abusive acts or practices—specifically civil money penalties and disgorgement—is contrary to the Bureau's current priority of achieving general deterrence through penalties and other monetary remedies and of compensating victims for harm caused by violations of the Federal consumer financial laws through the Bureau's Civil Penalty Fund. Likewise, adhering to a policy that disfavors citing or alleging conduct as abusive when that conduct is also unfair or deceptive is contrary to the Bureau's current priority of maximizing the Bureau's ability to successfully resolve its contested litigation, as it does not allow the Bureau to assert alternative legal causes of action in a judicial action or administrative proceeding. The Bureau's statutory purpose includes ''ensuring . . . that markets for consumer financial products and services are fair, transparent, and competitive.'' [12] Declining to cite or penalize conduct as abusive based on the articulated principles in the Policy Statement may also skew the consumer financial marketplace, to the detriment of market participants who do not act abusively. The Bureau will, of course, continue to engage in typical prosecutorial discretion as appropriate and can use that discretion to marshal its resources effectively.

The Policy Statement was not required under the abusiveness standard set forth in the Dodd-Frank Act. The statutory standard for what the Bureau has authority to declare an ''abusive act or practice'' is set forth in section 1031(d) of the Dodd-Frank Act. The Policy Statement stated an intent to refrain from applying the abusiveness standard even when permitted by law. Had Congress intended to limit the Bureau's authority to apply the full scope of the abusiveness standard, it could have prescribed a narrower abusiveness prohibition, but it did not. As the Policy Statement itself acknowledged, courts have consistently found that section 1031(d) provides sufficient notice for due process purposes.[13] Moreover, because the Policy Statement did not create binding legal obligations on the Bureau or create or confer any substantive rights on external parties, it did not create any reasonable reliance interests for industry participants. Thus, rescinding the Policy Statement is consistent with the Bureau's statutory authority.

The Bureau has determined that it should exercise the full scope of its supervisory and enforcement authority to identify and remediate abusive acts or practices. On reconsideration, the Bureau has concluded the Policy Statement's effectiveness in accomplishing its stated purposes does not justify its potential to harm consumers and the marketplace. For these reasons, the Bureau is rescinding the Policy Statement and instead, in its discretion, intends to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau.

The statutory standard for what the Bureau has authority to declare an ''abusive act or practice'' is set forth in section 1031(d) of the Dodd-Frank Act. Specifically, section 1031(d) states that the Bureau shall have no authority under this section to declare an act or practice abusive in connection with the provision of a consumer financial product or service, unless the act or practice—(1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or (2) takes unreasonable advantage of—(A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service; (B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or (C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.[14] To demonstrate a violation of section 1031(d), the Bureau therefore must satisfy the specific elements of sections 1031(d)(1), 1031(d)(2)(A), 1031(d)(2)(B), or 1031(d)(2)(C). When the Bureau alleges an abusiveness violation, the Bureau intends to satisfy these elements.

*Regulatory Requirements:* The Policy Statement constituted a general statement of policy exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act (APA).[15] It was intended to provide information regarding the Bureau's general plans to exercise its supervisory and enforcement discretion and did not impose any legal requirements on external parties, nor did it create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceeding. The rescission of this policy statement likewise is a general statement of policy exempt from the notice and comment rulemaking requirements of the APA. It is intended to provide information regarding the Bureau's general plans to exercise its supervision and enforcement discretion and does not impose any legal requirements on external parties or create or confer any substantive rights on external parties that could be enforceable in any administrative or civil proceedings. Because no notice of proposed rulemaking was originally required in issuing the Policy Statement, and is not required in issuing

[10] 85 FR at 6735–36.

[11] 12 U.S.C. 5511(b)(2).

[12] 12 U.S.C. 5511(a).

[13] *See, e.g., CFPB* v. *All Am. Check Cashing, Inc.,* No. 16–cv–356, 2018 WL 9812125, at *3 (S.D. Miss. Mar. 21, 2018) (rejecting vagueness challenge to the abusiveness prohibition); *CFPB* v. *ITT Educ. Servs., Inc.,* 219 F. Supp. 3d 878, 906 (S.D. Ind. 2015) (''Because the CFPA itself elaborates the conditions under which a business's conduct may be found abusive—and because agencies and courts have successfully applied the term as used in closely related consumer protection statutes and regulations—we conclude that the language in question provides at least the minimal level of clarity that the due process clause demands of non-criminal economic regulation.''); *Illinois* v. *Alta Colleges, Inc.,* No. 14–cv–3786, 2014 WL 4377579, at *4 (N.D. Ill. Sept. 4, 2014) (rejecting vagueness challenge to abusiveness prohibition).

[14] 12 U.S.C. 5531(d).

[15] 5 U.S.C. 553(b).

this rescission, the Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis for this rescission. The Bureau has also determined that the rescission of the Policy Statement does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.

Pursuant to the Congressional Review Act, 5 U.S.C. 801 *et seq.,* the Bureau will submit a report containing the rescission of the Policy Statement and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to its applicability date. The Office of Information and Regulatory Affairs has designated the rescission of the Policy Statement as not a ''major rule'' as defined by 5 U.S.C. 804(2).

Dated: March 8, 2021.

**David Uejio,**

*Acting Director, Bureau of Consumer Financial Protection.*

[FR Doc. 2021–05437 Filed 3–18–21; 8:45 am]

**BILLING CODE 4810–AM–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 25

**[Docket No. FAA–2021–0203; Special Conditions No. 25–784–SC]**

## Special Conditions: Lufthansa Technik, Boeing Model 787–8 Airplane; Installation of Large, Non-Structural Glass in the Passenger Cabin

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

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Boeing Model 787–8 airplane. This airplane as modified by Lufthansa Technik, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is the installation of large, non-structural glass in the passenger cabin. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** This action is effective on Lufthansa Technik on March 19, 2021. Send comments on or before May 3, 2021.

**ADDRESSES:** Send comments identified by Docket No. FAA–2021–0203 using any of the following methods:

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Shannon Lennon, Human Machine Interface Section, AIR–626, Transport Standards Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, Washington 98198; telephone and fax 206–231–3209; email *Shannon.Lennon@faa.gov.*

**SUPPLEMENTARY INFORMATION:** The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA has determined that prior public notice and comment are unnecessary, and finds that, for the same reason, good cause exists for adopting these special conditions upon publication in the **Federal Register**.

### Comments Invited

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

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

### Background

On September 27, 2019, Lufthansa Technik applied for a supplemental type certificate for installation of large, non-structural glass in the passenger cabin in the Boeing Model 787–8 airplane. The Boeing Model 787–8 is a twin-engine, transport category airplane, with capacity for 381 passengers, and a maximum takeoff weight of 476,000 pounds.

### Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Lufthansa Technik must show that the Boeing Model 787–8 airplane, as changed, continues to meet the applicable provisions of the regulations listed in Type Certificate No. TC No. T00021SE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Boeing Model 787–8 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 787–8 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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

**Novel or Unusual Design Features**

The Boeing Model 787–8 airplane will incorporate the following novel or unusual design features:

Lufthansa Technik is proposing to install large non-structural glass items in Model 787–8 airplanes. Possible installations of large non-structural glass items include, but are not limited to, the following items:

- Glass partitions.
- Glass floor installations.
- Glass attached to the ceiling.
- Glass parts integrated in the stairway.
- Wall or Door mounted mirrors and glass panels.
- Mirrors as part of a door blow out panel.
- Glass plate installed in a doorframe.
- Washstand with glass-panel.

The installation of these glass items in the passenger compartment, which can be occupied during taxi, take-off and landing (TT&L), is a novel or unusual design feature with respect to the installed material. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design features.

**Discussion**

The use of glass results in trade-offs between the one unique characteristic of glass—its capability for undistorted or controlled light transmittance, or transparency—and the negative aspects of the material. Glass, in its basic form as annealed, untreated sheet, plate, or float glass, when compared to metals, is extremely notch-sensitive, has a low fracture resistance, has a low modulus of elasticity, and can be highly variable in its properties. While reasonably strong, it is nonetheless not a desirable material for traditional airplane applications because it is heavy (about the same density as aluminum), and when it fails, it breaks into extremely sharp fragments that have the potential for injury, and which have been known to be lethal. Thus, the use of glass traditionally was limited to windshields, and instrument or display transparencies. The regulations in § 25.775 only address, and likewise only recognize, the unique use of glass in windshield or window applications where no other material will serve. This regulation does address the adverse properties of glass, but pilots occasionally are injured from shattered glass windshields.

The FAA divides other uses of glass in the passenger cabin into four groups. These groups were created to address the practical and functional uses of glass. The four groups are as follows:

The first group is glass items installed in rooms or areas in the cabin that are not occupied during TT&L, and a person does not have to enter or pass through the room or area to get to any emergency exit.

The second group is glass integrated into a functional device the operation of which is dependent upon the characteristics of glass, such as instrument or indicator protective transparencies, or monitor screens such as liquid crystal displays or plasma displays. This group may be installed in any area in the cabin regardless of occupancy during TT&L. Acceptable means of compliance for these items may depend on the size and specific location of the device containing the glass.

The third group is small glass items installed in occupied rooms or areas during TT&L, or rooms or areas that a person does not have to enter or pass through to get to any emergency exit. The FAA defines a small glass item as less than 8.8 lbs (4 kg) in mass.

The fourth group is large glass items, the subject of these special conditions, installed in occupied rooms or areas during TT&L, or rooms or areas that a person must enter or pass through to get to any emergency exit. A large glass item is defined as 8.8 lbs (4 kg) or greater in mass. Groups of glass items that collectively weigh 4 kg or more would also be included. The mass is based on the amount of glass that becomes hazardous in high inertial loads.

The glass items in groups one, two, and three are restricted to applications where the potential for injury is either highly localized, such as flight-instrument faces, or the location is such that injury due to failure of the glass is unlikely, for example mirrors in lavatories, because these installations necessitate the use of glass. These glass items typically are addressed in a method-of-compliance issue paper for each project based on existing part 25 regulations, or in established policy. These issue papers identify specific tests that could include abuse loading and ball-impact testing. In addition, these items are subject to the inertia loads contained in § 25.561, and maximum positive-differential pressure for items like video monitors to meet § 25.789.

The items in group four are much larger and heavier than previously approved, and raise additional safety concerns. These large, heavy glass panels, primarily installed as architectural features, were not envisioned in the regulations. The unique aspects of glass, with the potential to become highly injurious or lethal objects during emergency landing, minor crash conditions, or in flight, warrant a unique approach to certification that addresses the characteristics of glass that prevented its use in the past. These special conditions were developed to ensure that airplanes with large glass features in passenger cabins provide the same level of safety as airplanes using traditional, lightweight materials. The FAA reiterates this intention in the text of the special conditions by qualifying their use for group four glass items.

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

**Applicability**

As discussed above, these special conditions are applicable to the Boeing Model 787–8 airplane. Should Lufthansa Technik apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00021SE to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

**Conclusion**

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

**List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

**Authority Citation**

The authority citation for these special conditions is as follows:

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

**The Special Conditions**

Accordingly, pursuant to the authority delegated to me by the

Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 787–8 airplanes, as modified by Lufthansa Technik.

For large glass items (a single item, or a collective group of glass items, that weigh 4 kg or more in mass) installed in passenger-occupied rooms or areas during taxi, takeoff, and landing, or installed in rooms or areas that occupants must enter or pass through to access any emergency exit, the glass installations on the Lufthansa Model 787–8 airplane must meet the following conditions:

1. Material Fragmentation—The applicant must use tempered or otherwise treated glass to ensure that, when fractured, the glass breaks into small pieces with relatively dull edges. The glass component installation must retain all glass fragments to minimize the danger from flying glass shards or pieces. The applicant must demonstrate this characteristic by impact and puncture testing, and testing to failure. The applicant may conduct this test with or without any glass coating that may be used in the design.

2. Strength—In addition to meeting the load requirements for all flight and landing loads, including any of the applicable emergency-landing conditions in subparts C & D of 14 CFR part 25, the glass components that are located such that they are not protected from contact with cabin occupants must not fail due to abusive loading, such as impact from occupants stumbling into, leaning against, sitting on, or performing other intentional or unintentional forceful contact with the glass component. The applicant must assess the effect of design details such as geometric discontinuities or surface finish, including but not limited to embossing and etching.

3. Retention—The glass component, as installed in the airplane, must not come free of its restraint or mounting system in the event of an emergency landing, considering both the directional loading and resulting rebound conditions. The applicant must assess the effect of design details such as geometric discontinuities or surface finish, including but not limited to embossing and etching.

4. Instruction for Continued Airworthiness—The instructions for continued airworthiness must reflect the method used to fasten the panel to the cabin interior, and must ensure the reliability of the methods used (*e.g.,* life limit of adhesives, or clamp connection). The applicant must define any inspection methods and intervals based upon adhesion data from the manufacturer of the adhesive, or upon actual adhesion-test data, if necessary.

Issued in Des Moines, Washington, on March 11, 2021.

**Patrick Mullen,**

*Manager, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service.*

[FR Doc. 2021–05447 Filed 3–18–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### 19 CFR Chapter I

### Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Canada

**AGENCY:** Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

**ACTION:** Notification of continuation of temporary travel restrictions.

**SUMMARY:** This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border. Such travel will be limited to ''essential travel,'' as further defined in this document.

**DATES:** These restrictions go into effect at 12 a.m. Eastern Daylight Time (EDT) on March 22, 2021 and will remain in effect until 11:59 p.m. EDT on April 21, 2021.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Watson, Office of Field Operations Coronavirus Coordination Cell, U.S. Customs and Border Protection (CBP) at 202–325–0840.

**SUPPLEMENTARY INFORMATION:**

## Background

On March 24, 2020, DHS published notice of its decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel,'' as further defined in that document.[1] The document described the developing circumstances regarding the COVID–19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID–19 within the United States and globally, DHS had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada posed a ''specific threat to human life or national interests.'' DHS later published a series of notifications continuing such limitations on travel until 11:59 p.m. EDT on March 21, 2021.[2]

DHS continues to monitor and respond to the COVID–19 pandemic. As of the week of March 7, 2021, there have been over 116.1 million confirmed cases globally, with over 2.5 million confirmed deaths.[3] There have been over 29.2 million confirmed and probable cases within the United States,[4] over 881,000 confirmed cases in Canada,[5] and over 2.1 million confirmed cases in Mexico.[6]

## Notice of Action

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Canada poses an ongoing ''specific threat to human life or national interests.''

U.S. and Canadian officials have mutually determined that non-essential travel between the United States and Canada poses additional risk of transmission and spread of the virus associated with COVID–19 and places

[1] 85 FR 16548 (Mar. 24, 2020). That same day, DHS also published notice of its decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel,'' as further defined in that document. 85 FR 16547 (Mar. 24, 2020).

[2] *See* 86 FR 10815 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83432 (Dec. 22, 2020); 85 FR 74603 (Nov. 23, 2020); 85 FR 67276 (Oct. 22, 2020); 85 FR 59670 (Sept. 23, 2020); 85 FR 51634 (Aug. 21, 2020); 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020). DHS also published parallel notifications of its decisions to continue temporarily limiting the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel.'' *See* 86 FR 10816 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83433 (Dec. 22, 2020); 85 FR 74604 (Nov. 23, 2020); 85 FR 67275 (Oct. 22, 2020); 85 FR 59669 (Sept. 23, 2020); 85 FR 51633 (Aug. 21, 2020); 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020).

[3] WHO, Coronavirus disease 2019 (COVID–19) Weekly Epidemiological Update (Mar. 7, 2021), available at *https://www.who.int/publications/m/item/weekly-epidemiological-update---10-march-2021.*

[4] CDC, COVID Data Tracker (accessed Mar. 15, 2021), *https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days.*

[5] WHO, COVID–19 Weekly Epidemiological Update (Mar. 7, 2021).

[6] *Id.*

the populace of both nations at increased risk of contracting the virus associated with COVID–19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Canada, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[7] I have determined that land ports of entry along the U.S.-Canada border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in ''essential travel,'' as defined below. Given the definition of ''essential travel'' below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Canada border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Canada in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Canada);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Canada, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Canada. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on April 21, 2021. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.[8]

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

**Alejandro N. Mayorkas,**

*Secretary, U.S. Department of Homeland Security.*

[FR Doc. 2021–05878 Filed 3–18–21; 8:45 am]

BILLING CODE 9112–FP–P

[7] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

[8] DHS is working closely with counterparts in Mexico and Canada to identify appropriate public health conditions to safely ease restrictions in the future and support U.S. border communities.

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

### 19 CFR Chapter I

### Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Mexico

**AGENCY:** Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

**ACTION:** Notification of continuation of temporary travel restrictions.

**SUMMARY:** This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border. Such travel will be limited to ''essential travel,'' as further defined in this document.

**DATES:** These restrictions go into effect at 12 a.m. Eastern Daylight Time (EDT) on March 22, 2021 and will remain in effect until 11:59 p.m. EDT on April 21, 2021.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Watson, Office of Field Operations Coronavirus Coordination Cell, U.S. Customs and Border Protection (CBP) at 202–325–0840.

**SUPPLEMENTARY INFORMATION:**

## Background

On March 24, 2020, DHS published notice of its decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to ''essential travel,'' as further defined in that document.[1] The document described the developing circumstances regarding the COVID–19

[1] 85 FR 16547 (Mar. 24, 2020). That same day, DHS also published notice of its decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel,'' as further defined in that document. 85 FR 16548 (Mar. 24, 2020).

pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID–19 within the United States and globally, DHS had determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico posed a ''specific threat to human life or national interests.'' DHS later published a series of notifications continuing such limitations on travel until 11:59 p.m. EDT on March 21, 2021.[2]

DHS continues to monitor and respond to the COVID–19 pandemic. As of the week of March 7, 2021, there have been over 116.1 million confirmed cases globally, with over 2.5 million confirmed deaths.[3] There have been over 29.2 million confirmed and probable cases within the United States,[4] over 881,000 confirmed cases in Canada,[5] and over 2.1 million confirmed cases in Mexico.[6]

**Notice of Action**

Given the outbreak and continued transmission and spread of COVID–19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID–19 between the United States and Mexico poses an ongoing ''specific threat to human life or national interests.''

U.S. and Mexican officials have mutually determined that non-essential travel between the United States and Mexico poses additional risk of transmission and spread of the virus associated with COVID–19 and places the populace of both nations at increased risk of contracting the virus associated with COVID–19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Mexico, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID–19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),[7] I have determined that land ports of entry along the U.S.-Mexico border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in ''essential travel,'' as defined below. Given the definition of ''essential travel'' below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Mexico border shall be limited to ''essential travel,'' which includes, but is not limited to—

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (*e.g.,* to receive medical treatment in the United States);
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States (*e.g.,* individuals working in the farming or agriculture industry who must travel between the United States and Mexico in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (*e.g.,* government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID–19 or other emergencies);
- Individuals engaged in lawful cross-border trade (*e.g.,* truck drivers supporting the movement of cargo between the United States and Mexico);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

The following travel does not fall within the definition of ''essential travel'' for purposes of this Notification—

- Individuals traveling for tourism purposes (*e.g.,* sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Mexico, but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Mexico. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EDT on April 21, 2021. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.[8]

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute ''essential travel'' under this Notification. Further, the CBP Commissioner may, on an individualized basis and for

[2] *See* 86 FR 10816 (Feb. 23, 2021); 86 FR 4967 (Jan. 19, 2021); 85 FR 83433 (Dec. 22, 2020); 85 FR 74604 (Nov. 23, 2020); 85 FR 67275 (Oct. 22, 2020); 85 FR 59669 (Sept. 23, 2020); 85 FR 51633 (Aug. 21, 2020); 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020). DHS also published parallel notifications of its decisions to continue temporarily limiting the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to ''essential travel.'' *See* 86 FR 10815 (Feb. 23, 2021); 86 FR 4969 (Jan. 19, 2021); 85 FR 83432 (Dec. 22, 2020); 85 FR 74603 (Nov. 23, 2020); 85 FR 67276 (Oct. 22, 2020); 85 FR 59670 (Sept. 23, 2020); 85 FR 51634 (Aug. 21, 2020); 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020).

[3] WHO, Coronavirus disease 2019 (COVID–19) Weekly Epidemiological Update (Mar. 7, 2021), available at *https://www.who.int/publications/m/item/weekly-epidemiological-update---10-march-2021.*

[4] CDC, COVID Data Tracker (accessed Mar. 15, 2021), *https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days.*

[5] WHO, COVID–19 Weekly Epidemiological Update (Mar. 7, 2021).

[6] *Id.*

[7] 19 U.S.C. 1318(b)(1)(C) provides that ''[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,'' is authorized to ''[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.'' On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities ''related to Customs revenue functions'' were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep't Order No. 100–16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that ''[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.'' Congress has vested in the Secretary of Homeland Security the ''functions of all officers, employees, and organizational units of the Department,'' including the Commissioner of CBP. 6 U.S.C. 112(a)(3).

[8] DHS is working closely with counterparts in Mexico and Canada to identify appropriate public health conditions to safely ease restrictions in the future and support U.S. border communities.

humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in ''essential travel.''

**Alejandro N. Mayorkas,**

*Secretary, U.S. Department of Homeland Security.*

[FR Doc. 2021–05877 Filed 3–18–21; 8:45 am]

**BILLING CODE 9112–FP–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 510, 520, 522, 524, 529, 556, and 558

**[Docket No. FDA–2020–N–0002]**

### New Animal Drugs; Approval of New Animal Drug Applications; Changes of Sponsorship; Change of Sponsor's Name and Address

**AGENCY:** Food and Drug Administration, Department of Health and Human Services (HHS).

**ACTION:** Final rule; technical amendments.

**SUMMARY:** The Food and Drug Administration (FDA or we) is amending the animal drug regulations to reflect application-related actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during July, August, and September 2020. FDA is informing the public of the availability of summaries of the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to improve the accuracy and readability of the regulations.

**DATES:** This rule is effective March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–5689, *george.haibel@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Approvals

FDA is amending the animal drug regulations to reflect approval actions for NADAs and ANADAs during July, August, and September 2020, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the office of the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500. Persons with access to the internet may obtain these documents at the CVM FOIA Electronic Reading Room: *https://www.fda.gov/about-fda/center-veterinary-medicine/cvm-foia-electronic-reading-room*. Marketing exclusivity and patent information may be accessed in FDA's publication, Approved Animal Drug Products Online (Green Book) at: *https://www.fda.gov/animal-veterinary/products/approved-animal-drug-products-green-book*.

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING JULY, AUGUST, AND SEPTEMBER 2020

| Approval date | File No. | Sponsor | Product name | Species | Effect of the action | Public documents |
|---|---|---|---|---|---|---|
| July 9, 2020 | 141–532 | Intervet, Inc., 2 Giralda Farms, Madison, NJ 07940. | BRAVECTO 1-MONTH (furalaner) Chews for Dogs. | Dogs | Original approval for the treatment and prevention of flea infestations, and the treatment and control of tick infestations for 1 month in dogs and puppies. | FOI Summary. |
| July 27, 2020 | 141–538 | Ceva Sante Animale, 10 Avenue de la Ballastière, 33500 Libourne, France. | CARDALIS (spironolactone and benazepril hydrochloride chewable tablets). | Dogs | Original approval with concurrent therapy (*e.g.,* furosemide, etc.) for the management of clinical signs of mild, moderate, or severe congestive heart failure in dogs due to atrioventricular valvular insufficiency (AVVI). | FOI Summary. |
| July 29, 2020 | 200–687 | Cronus Pharma Specialities India Private Ltd., Sy No-99/1, GMR Hyderabad Aviation SEZ Ltd., Mamidipalli Village, Shamshabad Mandal, Ranga Reddy, Hyderabad, Telangana, 501218, India. | Carprofen Chewable Tablets. | Dogs | Original approval as a generic copy of NADA 141–111. | FOI Summary. |
| August 4, 2020 | 200–681 | Dechra Veterinary Products LLC, 7015 College Blvd., Suite 525, Overland Park, KS 66211. | Carprofen Tablets | Dogs | Original approval as a generic copy of NADA 140–035. | FOI Summary. |
| September 9, 2020 | 141–529 | Pharmgate LLC, 1800 Sir Tyler Dr., Wilmington, NC 28405. | MAXIBAN (naracin and nicarbazin) plus PENNITRACIN MD (bacitracin methylenedisalicylate) Type C medicated feeds. | Chickens | Original approval for increased rate of weight gain, improved feed efficiency, and for the prevention of coccidiosis in broiler chickens. | FOI Summary. |
| September 18, 2020. | 200–690 | Pharmasone LLC, 1800 Sir Tyler Dr., Wilmington, NC 28405. | ZOASHIELD 25% (zoalene Type A medicated article). | Chickens, turkeys. | Original approval as a generic copy of NADA 141–218. | FOI Summary. |
| September 28, 2020. | 200–069 | Bimeda Animal Health Ltd., 1B The Herbert Building, The Park, Carrickmines, Dublin 18, Ireland. | OVACYST (gonadorelin) Injectable Solution. | Cattle | Supplemental approval for fixed-time artificial insemination (FTAI) in beef cows and lactating dairy cows. | FOI Summary. |

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING JULY, AUGUST, AND—Continued SEPTEMBER 2020

| Approval date | File No. | Sponsor | Product name | Species | Effect of the action | Public documents |
|---|---|---|---|---|---|---|
| September 29, 2020. | 200–528 | Pharmgate, Inc, 1800 Sir Tyler Dr., Wilmington, NC 28405. | SAVALAN 60 (salinomycin sodium) Type A medicated article. | Chickens, quail | Original approval as a generic copy of NADA 011–116. | FOI Summary. |

## II. Changes of Sponsor

Elanco US Inc., 2500 Innovation Way, Greenfield, IN 46140 has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 141–437 for OSNURIA (betamethasone acetate, florfenicol, terbinafine) Otic Gel to Dechra, Ltd., Snaygill Industrial Estate, Keighley Rd., Skipton, North Yorkshire, BD23 2RW, United Kingdom.

Pharmasone LLC, 1800 Sir Tyler Dr., Wilmington, NC 28405 has informed FDA that it has transferred ownership of, and all rights and interest in, ANADA 200–690 for ZOASHIELD 25% (zoalene Type A medicated article) to Elanco US Inc., 2500 Innovation Way, Greenfield, IN 46140.

Also, Bayer HealthCare LLC, Animal Health Division, P.O. Box 390, Shawnee Mission, KS 66201 has informed FDA that it has transferred ownership of, and all rights and interest in, the 39 NADAs and 17 ANADAs listed below to Elanco US Inc., 2500 Innovation Way, Greenfield, IN 46140:

| File No. | Product name |
|---|---|
| 034–641 | TIGUVON (fenthion) Pour-On Cattle Insecticide. |
| 040–001 | MELDANE 2 (coumaphos) Type A Medicated Article. |
| 045–416 | TEVCODYNE (phenylbutazone) Injectable. |
| 047–138 | SPOTTON (fenthion) 20% Ready-to-Use Cattle Insecticide. |
| 047–955 | ROMPUN (xylazine hydrochloride) Injectable (20 mg). |
| 047–956 | ROMPUN (xylazine hydrochloride) Injectable (100 mg). |
| 091–818 | Phenylbutazone Tablets, USP 1 gram. |
| 093–329 | HAVASPAN (sulfamethazine) Prolonged Release Bolus; SULFASPAN (sulfamethazine) Prolonged Release Bolus. |
| 093–483 | SPECTAM (spectinomycin hydrochloride) Injectable Solution. |
| 107–345 | RINTAL (febantel) Paste. |
| 107–346 | RINTAL (febantel) Suspension. |
| 111–529 | EQUIMATE (fluprostenol sodium). |
| 111–607 | DRONCIT (praziquantel) 5.68% Injectable Solution. |
| 111–798 | DRONCIT (praziquantel) Canine Cestocide Tablets; DRONCIT (praziquantel) Feline Cestocide Tablets. |
| 116–089 | VELTRIM (clotrimazole) 1% Dermatologic Cream. |
| 132–336 | PROBAN (cythioate) Oral Liquid. |
| 132–337 | PROBAN (cythioate) Tablets. |
| 132–533 | STYQUIN (butamisole hydrochloride) Parenteral 1.1%. |
| 132–789 | PRO–SPOT (fenthion) Solution. |
| 133–953 | VERCOM (febantel and praziquantel) Paste Anthelmintic. |
| 140–441 | BAYTRIL (enrofloxacin) Antibacterial Tablets; BAYTRIL TASTE TABS (enrofloxacin) Antibacterial Tablets. |
| 140–912 | RINTAL (febantel) Tabs Anthelmintic Tablets. |
| 140–913 | BAYTRIL (enrofloxacin) Antibacterial Injectable Solution. |
| 141–007 | DRONTAL Plus (febantel, praziquantel, pyrantel pamoate) Taste Tablets. |
| 141–008 | DRONTAL (praziquantel and pyrantel pamoate) Tablets. |
| 141–068 | BAYTRIL 100 (enrofloxacin) Injectable Solution. |
| 141–099 | CYDECTIN (moxidectin) Pour-On for Beef and Dairy Cattle. |
| 141–176 | BAYTRIL (enrofloxacin and silver sulfadiazine) Otic Emulsion. |
| 141–208 | ADVANTAGE DUO (imidacloprid and ivermectin) Topical Solution. |
| 141–220 | CYDECTIN (moxidectin) Injectable Solution. |
| 141–247 | CYDECTIN (moxidectin) Oral Drench for Sheep. |
| 141–251 | ADVANTAGE MULTI (imidacloprid and moxidectin) Topical Solution for Dogs. |
| 141–254 | ADVANTAGE MULTI (imidacloprid and moxidectin) Topical Solution for Cats. |
| 141–275 | PROFENDER (emodepside and praziquantel) Topical Solution. |
| 141–344 | VERAFLOX (pradofloxacin) Oral Suspension for Cats. |
| 141–417 | CORAXIS (moxidectin) Topical Solution. |
| 141–435 | ADVANTUS (imidacloprid) Tablets. |
| 141–440 | CLARO (florfenicol, mometasone furoate, terbinafine) Otic Solution. |
| 141–527 | BAYTRIL 100 (enrofloxacin) CA1. |
| 200–042 | Ketamine Hydrochloride Injection, USP. |
| 200–124 | Flunixin Meglumine Injection. |
| 200–126 | Phenylbutazone 20% Injection. |
| 200–137 | GENTAMAX 100 (gentamicin sulfate) Solution. |
| 200–181 | AMIMAX E (amikacin sulfate) Solution. |
| 200–202 | PHOENECTIN (ivermectin) Liquid for Horses. |
| 200–230 | Guaifenesin Injection. |
| 200–246 | ANTHELBAN V (pyrantel pamoate) Equine Anthelmintic Suspension. |
| 200–286 | PHOENECTIN (ivermectin) Paste 1.87%. |
| 200–293 | Furosemide Injection 5%. |
| 200–319 | Acepromazine Maleate Injection. |

| File No. | Product name |
|---|---|
| 200–322 | Butorphanol Tartrate Injection. |
| 200–360 | TIAGARD (tiamulin) Liquid Concentrate. |
| 200–408 | Butorphanol Tartrate Injection. |
| 200–555 | QUELLIN (carprofen) Tablets. |
| 200–582 | LONCOR 300 (florfenicol) Injectable Solution. |
| 200–608 | BAYTRIL (enrofloxacin) Soft Chewable Tablets. |

Following these changes of sponsorship, neither Bayer HealthCare LLC nor Pharmasone LLC are the sponsor of an approved application. Accordingly, they will be removed from the list of sponsors of approved applications in 21 CFR 510.600(c). As provided in the regulatory text, the animal drug regulations are amended to reflect these changes of sponsorship.

## III. Technical Amendments

FDA is making the following amendments to improve the accuracy, consistency, and readability of the animal drug regulations:

- 21 CFR 520.905a is amended to reflect the approved conditions of use for fenbendazole suspension in laying hens.
- 21 CFR 522.1182 is amended to reflect the 2016 change of sponsorship of an injectable ferric hydroxide product in young piglets.
- 21 CFR 522.1193 is amended to reflect the approved withdrawal period for a clorsulon injectable solution product.
- 21 CFR 522.1696a is amended to reflect an associated limitation for a penicillin G benzathine and penicillin G procaine injectable suspension product.
- 21 CFR 522.1890 is amended to reflect the current format for titling regulations for injectable dosage form new animal drugs.
- Entries in parts 556 and 558 (21 CFR parts 556 and 558) for a coumaphos Type A medicated article are being added. These sections were withdrawn in error (85 FR 18114, April 1, 2020).
- Part 558 is amended to reflect current naming and organization for specifications and application sponsors.
- 21 CFR 558.261 is amended to reflect an approved incorporation level of florfenicol in medicated feed for fish.
- 21 CFR 558.311 for lasalocid in medicated feed is amended to reflect a current tabular organization by species.
- 21 CFR 558.355 is amended to provide accurate cross references for approved uses to special considerations and label statements for monensin medicated feeds.
- 21 CFR 558.450 is amended to add two indications for use of oxytetracycline in medicated feed for fish that were removed during the recent codification of a supplemental approval (84 FR 12491 at 12502, April 2, 2019).
- Part 558 is amended by removing 21 CFR 558.465, which is redundant with 21 CFR 558.464. The cross reference for poloxalene in part 556 is amended to reflect this action.
- Part 558 is amended by adding 21 CFR 558.470 to reflect the approved conditions of use of a polyoxyethylene medicated feed block, which previously had been removed from 21 CFR part 520 without being added to part 558.
- Typographical errors are being corrected wherever they have been found.

## IV. Legal Authority

This rule sets forth technical amendments to the regulations to codify recent actions on approved new animal drug applications and corrections to improve the accuracy of the regulations, and as such does not impose any burden on regulated entities. This rule is issued under section 512(i) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360b(i)), which requires **Federal Register** publication of the conditions of use of an approved or conditionally approved new animal drug and the name and address of the drug's sponsor in a ''notice, which upon publication shall be effective as a regulation.'' A notice published pursuant to section 512(i) is not subject to the notice-and-comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* See section 512(i) of the FD&C Act; 21 CFR 10.40(e)(3); S. Rep. 90–1308, at 5 (1968).

This document does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a ''rule of particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808. Likewise, this is not a rule subject to Executive Order 12866, which defines a rule as ''an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency.''

## List of Subjects

*21 CFR Part 510*

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

*21 CFR Parts 520, 522, 524, and 529*

Animal drugs.

*21 CFR Part 556*

Animal drugs, Food.

*21 CFR Part 558*

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 510, 520, 522, 524, 529, 556, and 558 are amended as follows:

## PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for part 510 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

### § 510.600 [Amended]

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entry for ''Bayer HealthCare LLC'' and in the table in paragraph (c)(2), remove the entry for ''000859''.

## PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for part 520 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

■ 4. In § 520.304, add paragraph (a)(3), revise paragraphs (b)(1) and (2), and add paragraph (b)(3) to read as follows:

### § 520.304 Carprofen.

(a) * * *

(3) Each chewable tablet contains 25, 37.5, 50, 75, or 100 mg carprofen.

(b) * * *

(1) Nos. 017033, 054771, 055529, and 062250 for use of product described in paragraphs (a)(1) and (2) of this section as in paragraph (c) of this section.

(2) No. 058198 for use of product described in paragraph (a)(1) of this section as in paragraph (c) of this section.

(3) No. 069043 for use of product described in paragraph (a)(3) of this section as in paragraph (c) of this section.

* * * * *

■ 5. In § 520.530, revise paragraph (b) to read as follows:

**§ 520.530 Cythioate oral liquid.**

* * * * *

(b) *Sponsor.* See Nos. 054771 and 058198 in § 510.600 of this chapter.

* * * * *

■ 6. In § 520.531, revise paragraph (b)(1) to read as follows:

**§ 520.531 Cythioate tablets.**

* * * * *

(b) * * *

(1) No. 058198 for use of 30- and 90-mg tablets.

* * * * *

■ 7. In § 520.812, revise paragraph (b)(1) to read as follows:

**§ 520.812 Enrofloxacin.**

* * * * *

(b) * * *

(1) No. 058198 for use of products described in paragraphs (a)(1)(i) and (a)(2) and (3) of this section.

* * * * *

■ 8. In § 520.903a, revise paragraph (b) to read as follows:

**§ 520.903a Febantel paste.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 9. In § 520.903b, revise paragraph (b) to read as follows:

**§ 520.903b Febantel suspension.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 10. In § 520.903c, revise paragraph (b) to read as follows:

**§ 520.903c Febantel and praziquantel paste.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 11. In § 520.903d, revise paragraph (b) to read as follows:

**§ 520.903d Febantel tablets.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 12. In § 520.905a, revise paragraph (e)(5)(ii), remove paragraph (e)(5)(iii), and revise paragraph (e)(6)(ii) to read as follows:

**§ 520.905a Fenbendazole suspension.**

* * * * *

(e) * * *

(5) * * *

(ii) *Indications for use.* For the treatment and control of adult *Ascaridia galli* in broiler chickens and replacement chickens, and for the treatment and control of adult *A. galli* and *Heterakis gallinarum* in breeding chickens and laying hens.

(6) * * *

(ii) *Indications for use.* For the treatment and control of: Lungworms: Adult *Metastrongylus apri,* Adult *Metastrongylus pudendotectus;* Gastrointestinal worms: Adult and larvae (L3, L4 stages, liver, lung, intestinal forms) large roundworms (*Ascaris suum*), Adult nodular worms (*Oesophagostomum dentatum, O. quadrispinulatum*), Adult small stomach worms (*Hyostrongylus rubidus*), Adult and larvae (L2, L3, L4 stages—intestinal mucosal forms) whipworms (*Trichuris suis*); and Kidney worms: Adult and larvae *Stephanurus dentatus.*

* * * * *

■ 13. Revise § 520.998 to read as follows:

**§ 520.998 Fluralaner.**

(a) *Specifications.* (1) Each chewable tablet contains 112.5, 250, 500, 1,000, or 1,400 milligrams (mg) fluralaner.

(2) Each chewable tablet contains 45, 100, 200, 400, or 560 mg fluralaner.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally as a single dose with food:

(i) *Chewable tablets described in paragraph (a)(1) of this section.* Administer every 12 weeks, an appropriate combination of tablets to provide a minimum dose of 11.4 mg per pound (lb) (25 mg per kilogram (kg)) body weight. May be administered every 8 weeks in case of potential exposure to *Amblyomma americanum* ticks.

(ii) *Chewable tablets described in paragraph (a)(2) of this section.* Administer monthly, an appropriate combination of tablets to provide a minimum dose of 4.5 mg/lb (10 mg/kg) body weight.

(2) *Indications for use*—(i) *Chewable tablets described in paragraph (a)(1) of this section.* Kills adult fleas; for the treatment and prevention of flea infestations (*Ctenocephalides felis*), and the treatment and control of tick infestations [*Ixodes scapularis* (black-legged tick), *Dermacentor variabilis* (American dog tick), and *Rhipicephalus sanguineus* (brown dog tick)] for 12 weeks in dogs and puppies 6 months of age and older, and weighing 4.4 lbs or greater; and for the treatment and control of *Amblyomma americanum* (lone star tick) infestations for 8 weeks in dogs and puppies 6 months of age and older, and weighing 4.4 lbs or greater.

(ii) *Chewable tablets described in paragraph (a)(2) of this section.* Kills adult fleas; for the treatment and prevention of flea infestations (*C. felis*), and the treatment and control of tick infestations [*I. scapularis* (black-legged tick), *D. variabilis* (American dog tick), and *R. sanguineus* (brown dog tick)] for 1 month in dogs and puppies 8 weeks of age and older, and weighing 4.4 lbs or greater; and for the treatment and control of *A. americanum* (lone star tick) infestations for 1 month in dogs and puppies 6 months of age and older, and weighing 4.4 lbs or greater.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 14. In § 520.1156, revise paragraph (b) to read as follows:

**§ 520.1156 Imidacloprid.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 15. In § 520.1192, revise paragraph (b)(2) to read as follows:

**§ 520.1192 Ivermectin paste.**

* * * * *

(b) * * *

(2) Nos. 051311, 054925, 058198, and 061133 for use of a 1.87 percent paste for use as in paragraph (e)(1) of this section.

* * * * *

■ 16. In § 520.1195, revise paragraph (b)(1) to read as follows:

**§ 520.1195 Ivermectin liquid.**

* * * * *

(b) * * *

(1) Nos. 000010, 054925, 058005, and 058198 for use of product described in paragraph (a)(1) of this section as in paragraphs (e)(1)(i), (e)(1)(ii)(A), and (e)(1)(iii) of this section.

* * * * *

■ 17. In § 520.1454, revise paragraph (b) to read as follows:

**§ 520.1454 Moxidectin solution.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 18. In § 520.1720a, add paragraph (b)(5) to read as follows:

**§ 520.1720a Phenylbutazone tablets and boluses.**

* * * * *

(b) * * *

(5) No. 058198 for use of 1-g tablets in horses.

* * * * *

■ 19. In § 520.1860, revise paragraph (b) to read as follows:

**§ 520.1860 Pradofloxacin.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 20. In § 520.1870, revise paragraph (b) to read as follows:

**§ 520.1870 Praziquantel tablets.**

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter.

(1) No. 058198 for use of product described in paragraph (a)(1) of this section as in paragraph (c)(1) of this section and for use of product described in paragraph (a)(2) of this section as in paragraph (c)(2) of this section.

(2) No. 069043 for use of product described in paragraph (a)(1) of this section as in paragraphs (c)(1) of this section.

* * * * *

■ 21. In § 520.1871, revise paragraph (b)(1) to read as follows:

**§ 520.1871 Praziquantel and pyrantel.**

* * * * *

(b) * * *

(1) See No. 058198 for use of tablets described in paragraph (a)(1) of this section for use as in paragraph (d)(1) of this section.

* * * * *

■ 22. In § 520.1872, revise paragraph (b) to read as follows:

**§ 520.1872 Praziquantel, pyrantel pamoate, and febantel tablets.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 23. In § 520.2043, revise paragraph (b)(2) to read as follows:

**§ 520.2043 Pyrantel pamoate suspension.**

* * * * *

(b) * * *

(2) Nos. 054771, 058198, and 058829 for use of the products described in paragraph (a)(2) of this section as in paragraph (d)(2) of this section.

* * * * *

■ 24. Add § 520.2138 to read as follows:

**§ 520.2138 Spironolactone and benazepril.**

(a) *Specifications.* Each chewable tablet contains 20 milligrams (mg) spironolactone and 2.5 mg benazepril hydrochloride, 40 mg spironolactone and 5 mg benazepril hydrochloride, or 80 mg spironolactone and 10 mg benazepril hydrochloride.

(b) *Sponsor.* See No. 013744 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally once daily, with food, at a dose of 0.9 mg per pound (lb) (2 mg per kilogram (kg)) spironolactone and 0.11 mg/lb (0.25 mg/kg) benazepril hydrochloride, according to dog body weight using a suitable combination of whole and/or half tablets.

(2) *Indications for use.* With concurrent therapy (*e.g.,* furosemide, etc.) for the management of clinical signs of mild, moderate, or severe congestive heart failure in dogs due to atrioventricular valvular insufficiency (AVVI).

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 25. In § 520.2260b, add a heading for paragraph (b), revise paragraph (b)(1), add a heading for paragraph (e), and revise paragraph (e)(1) to read as follows:

**§ 520.2260b Sulfamethazine sustained-release boluses.**

* * * * *

(b) *22.5-gram bolus*—(1) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter for use of a 22.5-gram sulfamethazine prolonged-release bolus.

* * * * *

(e) *22.5-gram bolus*—(1) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter for use of a 22.5-gram sulfamethazine sustained release bolus.

* * * * *

■ 26. In § 520.2455, revise paragraphs (b)(1) and (2) to read as follows:

**§ 520.2455 Tiamulin.**

* * * * *

(b) * * *

(1) No. 058198 for products described in paragraphs (a)(1) and (3) of this section.

(2) No. 066104 for the product described in paragraph (a)(1) of this section.

* * * * *

## PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 27. The authority citation for part 522 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

■ 28. In § 522.23, revise paragraph (b) to read as follows:

**§ 522.23 Acepromazine.**

* * * * *

(b) *Sponsors.* See Nos. 000010 and 058198 in § 510.600(c) of this chapter.

* * * * *

■ 29. In § 522.234, revise paragraph (b) to read as follows:

**§ 522.234 Butamisole.**

* * * * *

(b) *Sponsors.* See Nos. 054771 and 058198 in § 510.600(c) of this chapter.

* * * * *

■ 30. In § 522.246, revise paragraphs (b)(2) and (3) to read as follows:

**§ 522.246 Butorphanol.**

* * * * *

(b) * * *

(2) No. 058198 for use of the product described in paragraph (a)(2) of this section as in paragraph (d)(2) of this section.

(3) Nos. 000061, 058198, and 059399 for use of the product described in paragraph (a)(3) of this section as in paragraph (d)(3) of this section.

* * * * *

■ 31. In § 522.812, revise paragraphs (b)(1) and (2) to read as follows:

**§ 522.812 Enrofloxacin.**

* * * * *

(b) * * *

(1) Nos. 017033, 055529, and 058198 for use of product described in paragraph (a)(1) of this section as in paragraph (e)(1) of this section; and

(2) Nos. 055529, 058198, and 061133 for use of product described in paragraph (a)(2) of this section as in paragraphs (e)(2) and (3) of this section.

* * * * *

■ 32. In § 522.955, revise paragraph (b)(2) to read as follows:

**§ 522.955 Florfenicol.**

* * * * *

(b) * * *

(2) Nos. 000061 and 058198 for use of product described in paragraph (a)(2) of this section as in paragraph (d)(1)(ii) of this section.

* * * * *

■ 33. In § 522.970, revise paragraph (b)(1) to read as follows:

**§ 522.970 Flunixin.**

* * * * *

(b) * * *

(1) See Nos. 000061, 016592, 055529, 058198, and 061133 for use as in paragraph (e) of this section.

* * * * *

■ 34. In § 522.995, revise paragraph (b) to read as follows:

**§ 522.995 Fluprostenol.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 35. In § 522.1010, revise paragraph (b)(3) to read as follows:

**§ 522.1010 Furosemide.**

* * * * *

(b) * * *

(3) No. 058198 as described in paragraph (a)(2) of this section for use as in paragraphs (d)(1), (d)(2)(i), and (d)(3) of this section.

* * * * *

■ 36. In § 522.1077:

■ a. Revise paragraph (b)(3);

■ b. Remove paragraph (b)(4); and

■ c. Redesignate paragraph (b)(5) as paragraph (b)(4).

The revision reads as follows:

**§ 522.1077 Gonadorelin.**

* * * * *

(b) * * *

(3) Nos. 000010 and 061133 for use of the 50-µg/mL product described in paragraph (a)(3) of this section as in paragraphs (e)(1)(i) and (v) of this section.

* * * * *

■ 37. In § 522.1086, revise paragraph (b) to read as follows:

**§ 522.1086 Guaifenesin solution.**

* * * * *

(b) *Sponsors.* See Nos. 037990 and 058198 in § 510.600(c) of this chapter.

* * * * *

■ 38. In § 522.1182, revise paragraph (b)(1) introductory text to read as follows:

**§ 522.1182 Iron injection.**

* * * * *

(b) * * *

(1) Nos. 016592 and 042552 for use of product described in paragraph (a)(1)(i) of this section as follows:

* * * * *

■ 39. In § 522.1193, revise paragraph (e)(3)(i) to read as follows:

**§ 522.1193 Ivermectin and clorsulon.**

* * * * *

(e) * * *

(3) * * *

(i) Nos. 000010, 055529, and 061133: Do not treat cattle within 21 days of slaughter. No. 058005: Do not treat cattle within 49 days of slaughter.

* * * * *

■ 40. In § 522.1222, revise paragraph (b) to read as follows:

**§ 522.1222 Ketamine.**

* * * * *

(b) *Sponsors.* See Nos. 017033, 054771, 058198, 059399, 063286, and 069043 in § 510.600(c) of this chapter.

* * * * *

■ 41. In § 522.1450, revise paragraph (b) to read as follows:

**§ 522.1450 Moxidectin solution.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 42. In § 522.1696a, revise paragraph (d)(2)(iii) to read as follows:

**§ 522.1696a Penicillin G benzathine and penicillin G procaine suspension.**

* * * * *

(d) * * *

(2) * * *

(iii) *Limitations.* Not for use within 30 days of slaughter. For Nos. 000859 and 016592: A withdrawal period has not been established for this product in pre-ruminating calves. Do not use in calves to be processed for veal.

■ 43. In § 522.1720, revise paragraph (b)(2) to read as follows:

**§ 522.1720 Phenylbutazone.**

* * * * *

(b) * * *

(2) Nos. 000061, 054771, 058198, and 061133 for use of product described in paragraph (a)(2) of this section as in paragraph (c) of this section.

* * * * *

■ 44. In § 522.1870, revise paragraph (b) to read as follows:

**§ 522.1870 Praziquantel.**

* * * * *

(b) *Sponsors.* See Nos. 058198 and 061133 in § 510.600(c) of this chapter.

* * * * *

■ 45. In § 522.1890, revise the section heading to read as follows:

**§ 522.1890 Prednisone suspension.**

■ 46. Revise § 522.2120 to read as follows:

**§ 522.2120 Spectinomycin hydrochloride.**

(a) *Specifications.* Each milliliter of solution contains 100 milligrams (mg) spectinomycin hydrochloride (as spectinomycin dihydrochloride pentahydrate).

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter:

(1) Nos. 016592 and 054771 for use as in paragraph (d)(1) of this section; and

(2) No. 058198 for use as in paragraph (d)(2) of this section.

(c) *Related tolerances.* See § 556.600 of this chapter.

(d) *Conditions of use.* It is administered as follows:

(1) *Turkeys (1- to 3-day-old poults) and chickens (newly hatched chicks)*—(i) *Amounts and indications for use.* (A) Administer 5 mg per poult subcutaneously as an aid in the control of chronic respiratory disease (CRD) associated with *Escherichia coli* in 1- to 3-day-old turkey poults.

(B) Administer 10 mg per poult as a single subcutaneous injection in the nape of the neck as an aid in the control of airsacculitis associated with *Mycoplasma meleagridis* sensitive to spectinomycin in 1- to 3-day-old turkey poults.

(C) Administer 2.5 to 5 mg per chick as an aid in the control of mortality and to lessen severity of infections caused by *M. synoviae, Salmonella typhimurium, S. infantis,* and *E. coli.*

(ii) *Limitations.* For use only in 1- to 3-day-old turkey poults and newly hatched chicks.

(2) *Dogs*—(i) *Amount.* Administer 2.5 to 5.0 mg per pound of body weight by intramuscular injection twice daily. Treatment may be continued for 4 days.

(ii) *Indications for use.* For treatment of infections caused by gram-negative and gram-positive organisms susceptible to spectinomycin.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 47. In § 522.2662, revise paragraph (b)(3) to read as follows:

**§ 522.2662 Xylazine.**

* * * * *

(b) * * *

(3) Nos. 058198 and 061651 for use of product described in paragraph (a)(1) of this section as in paragraph (d)(1) of this section; and product described in paragraph (a)(2) of this section as in paragraphs (d)(2), (d)(3)(i), (d)(3)(ii)(A), and (d)(3)(iii) of this section.

* * * * *

## PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 48. The authority citation for part 524 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

■ 49. In § 524.450, revise paragraph (b) to read as follows:

**§ 524.450 Clotrimazole.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 50. In § 524.775, revise paragraph (b) to read as follows:

**§ 524.775 Emodepside and praziquantel.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 51. In § 524.802, revise paragraph (b) to read as follows:

**§ 524.802 Enrofloxacin and silver sulfadiazine otic emulsion.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 52. In § 524.920, revise paragraphs (b)(1) through (3) to read as follows:

**§ 524.920 Fenthion.**

* * * * *

(b) * * *

(1) No. 058198 for use of product described in paragraph (a)(1)(i) of this section as in paragraph (d)(1) of this section.

(2) No. 058198 for use of product described in paragraph (a)(1)(ii) of this section as in paragraph (d)(2) of this section.

(3) No. 058198 for use of products described in paragraph (a)(2) of this section as in paragraph (d)(3) of this section.

* * * * *

■ 53. In § 524.955, revise paragraph (b) to read as follows:

**§ 524.955 Florfenicol, terbinafine, and betamethasone acetate otic gel.**

* * * * *

(b) *Sponsor.* See No. 043264 in § 510.600(c) of this chapter.

* * * * *

■ 54. In § 524.957, revise paragraph (b) to read as follows:

**§ 524.957 Florfenicol, terbinafine, and mometasone otic solution.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 55. In § 524.1140, revise paragraph (b) to read as follows:

**§ 524.1140 Imidacloprid and ivermectin.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 56. In § 524.1146, revise paragraphs (b)(1) through (3) to read as follows:

**§ 524.1146 Imidacloprid and moxidectin.**

* * * * *

(b) * * *

(1) Nos. 017030 and 058198 for use of product described in paragraph (a)(1) of this section as in paragraph (d)(1) of this section.

(2) Nos. 017030 and 058198 for use of product described in paragraph (a)(2) of this section as in paragraph (d)(2) of this section.

(3) No. 058198 for use of product described in paragraph (a)(2) of this section as in paragraph (d)(3) of this section.

* * * * *

■ 57. In § 524.1450, revise paragraphs (b)(1) and (2) to read as follows:

**§ 524.1450 Moxidectin.**

* * * * *

(b) * * *

(1) No. 058198 for use of product described in paragraph (a)(1) of this section as in paragraph (d)(1) of this section; and

(2) No. 058198 for use of product described in paragraph (a)(2) of this section as in paragraph (d)(2) of this section.

* * * * *

## PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 58. The authority citation for part 529 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

■ 59. In § 529.56, revise paragraph (b) to read as follows:

**§ 529.56 Amikacin.**

* * * * *

(b) *Sponsors.* See Nos. 054771 and 058198 in § 510.600(c) of this chapter.

* * * * *

■ 60. In § 529.1044a, revise paragraph (b) to read as follows:

**§ 529.1044a Gentamicin solution for infusion.**

* * * * *

(b) *Sponsors.* See Nos. 000061, 016592, 054628, 054771, 058005, 058198, and 061133 in § 510.600(c) of this chapter.

* * * * *

## PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 61. The authority citation for part 556 continues to read as follows:

**Authority:** 21 U.S.C. 342, 360b, 371.

■ 62. Add § 556.168 to read as follows:

**§ 556.168 Coumaphos.**

(a) [Reserved]

(b) *Tolerances.* The tolerances for coumaphos (measured as coumaphos and its oxygen analog, O,O-diethyl O-3-chloro-4-methyl-2-oxo-2 H-1-benzopyran-7-yl phosphate) are:

(1) *Chickens.* (i) Edible tissues (excluding eggs): 1 ppm.

(ii) Eggs: 0.1 ppm.

(2) [Reserved]

(c) *Related conditions of use.* See § 558.185 of this chapter.

■ 63. In § 556.517, revise paragraph (c) to read as follows:

**§ 556.517 Poloxalene.**

* * * * *

(c) *Related conditions of use.* See §§ 520.1840 and 558.464 of this chapter.

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 64. The authority citation for part 558 continues to read as follows:

**Authority:** 21 U.S.C. 354, 360b, 360ccc, 360ccc–1, 371.

■ 65. In § 558.55:

■ a. Revise paragraph (a);

■ b. Redesignate paragraphs (b) and (d) as paragraphs (d) and (e); and

■ c. Add new paragraph (b).

The revision and addition read as follows:

**§ 558.55 Amprolium.**

(a) *Specifications.* Type A medicated article containing 25 percent amprolium.

(b) *Sponsor.* No. 016592 in § 510.600(c) of this chapter.

* * * * *

■ 66. In § 558.58:

■ a. Revise paragraph (b); and

■ b. Redesignate paragraphs (c) and (d) as paragraphs (d) and (c).

The revision reads as follows:

**§ 558.58 Amprolium and ethopabate.**

* * * * *

(b) *Sponsor.* See No. 016592 in § 510.600(c) of this chapter.

* * * * *

■ 67. In § 558.68, revise paragraph (a) to read as follows:

**§ 558.68 Avilamycin.**

(a) *Specifications.* Each pound of Type A medicated article contains 45.4 or 90.7 grams of avilamycin.

* * * * *

■ 68. In § 558.76:

■ a. Revise paragraph (b);

■ b. Remove paragraph (c); and

■ c. Redesignate paragraphs (d) and (e) as paragraphs (c) and (d).

The revision reads as follows:

**§ 558.76 Bacitracin methylenedisalicylate.**

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter as follows:

(1) No. 054771 for use of products in paragraph (a)(1) of this section as in paragraph (d) of this section.

(2) No. 069254 for use of product in paragraph (a)(2) of this section as in paragraph (d) of this section.

* * * * *

■ 69. In § 558.78, revise paragraph (b) to read as follows:

**§ 558.78 Bacitracin zinc.**

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

■ 70. In § 558.95:

■ a. Revise paragraph (a);

■ b. Redesignate paragraphs (b) and (d) as paragraphs (d) and (e);

■ c. Add new paragraph (b);

■ d. Add a heading for newly redesignated paragraph (e)(5); and

■ e. Revise newly redesignated paragraph (e)(5)(iii).

The revisions and additions read as follows:

**§ 558.95 Bambermycins.**

(a) *Specifications.* Type A medicated articles containing 2, 4, or 10 grams bambermycins per pound.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter as follows:

(1) No. 016592: 2, 4, and 10 grams per pound for use as in paragraphs (e)(1) through (4) of this section.

(2) No. 012286: 2 grams for use as in paragraph (e)(2) of this section and 0.4 and 2 grams per pound for use as in paragraph (e)(3) of this section.

* * * * *

(e) * * *

(5) *Combinations.* * * *

(iii) Clopidol as in § 558.175.

* * * * *

■ 71. In § 558.128, revise paragraph (b) introductory text to read as follows:

**§ 558.128 Chlortetracycline.**

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter as follows:

* * * * *

■ 72. In § 558.140, revise paragraph (b) introductory text to read as follows:

**§ 558.140 Chlortetracycline and sulfamethazine.**

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter as follows:

* * * * *

■ 73. In § 558.175:

■ a. Revise paragraph (d)(3); and

■ b. Remove paragraph (e).

The revision reads as follows:

**§ 558.175 Clopidol.**

* * * * *

(d) * * *

(3) *Combinations.* Clopidol may also be used in combination with:

(i) Chlortetracycline as in § 558.128.

(ii) Lincomycin as in § 558.325.

■ 74. Add § 558.185 to read as follows:

**§ 558.185 Coumaphos.**

(a) *Specifications.* Type A medicated articles containing 1.12, 2.0, 11.2, or 50 percent coumaphos.

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.168 of this chapter.

(d) *Special considerations.* (1) Labeling shall bear the following warning: The active ingredient coumaphos is a cholinesterase inhibitor. Do not use this product on animals simultaneously or within a few days before or after treatment with, or exposure to, cholinesterase-inhibiting drugs, pesticides, or chemicals.

(2) See § 500.25 of this chapter.

(e) *Conditions of use in laying chickens.*

| Coumaphos in grams per ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|
| (1) 27.2 (0.003 percent). | Laying chickens: For control of capillary worm (*Capillaria obsignata*) and as an aid in control of common round worm (*Ascaridia galli*) and cecal worm (*Heterakis gallinae*). | Feed continuously as the sole ration for 14 days. If reinfection occurs, treatment may be repeated, but not sooner than 3 weeks after the end of the previous treatment. Do not feed to chickens within 10 days of vaccination or other conditions of stress.. | 058198 |
| (2) 36.3 (0.004 percent). | Replacement pullets: For control of capillary worm (*Capillaria obsignata*) and as an aid in control of common round worm (*Ascaridia galli*) and cecal worm (*Heterakis gallinae*). | Feed continuously as the sole ration for from 10 to 14 days. Do not feed to chickens under 8 weeks of age or within 10 days of vaccination or other conditions of stress. If birds are maintained on contaminated litter or exposed to infected birds, a second 10- to 14-day treatment is recommended, but not sooner than 3 weeks after the end of the previous treatment. If reinfection occurs after production begins, repeat treatment as recommended for laying flocks.. | 058198 |

■ 75. In § 558.195, revise paragraph (b) to read as follows:

**§ 558.195 Decoquinate.**

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

■ 76. In § 558.258, revise paragraph (b) to read as follows:

**§ 558.258 Fenbendazole.**

* * * * *

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

* * * * *

■ 77. In § 558.261, revise paragraph (e)(2)(ii) to read as follows:

**§ 558.261 Florfenicol.**

* * * * *

(e) * * *

(2) * * *

| Florfenicol in grams/ton of feed | Indications for use | Limitations |
|---|---|---|
| * | * | * |
| (ii) 182 to 2,724 ..... | Freshwater-reared salmonids: For the control of mortality due to coldwater disease associated with *Flavobacterium psychrophilum* and furunculosis associated with *Aeromonas salmonicida*. | Feed as a sole ration for 10 consecutive days to deliver 10 to 15 mg florfenicol per kg of fish. Feed containing florfenicol shall not be fed for more than 10 days. Following administration, fish should be reevaluated by a licensed veterinarian before initiating a further course of therapy. The effects of florfenicol on reproductive performance have not been determined. Feeds containing florfenicol must be withdrawn 15 days prior to slaughter. |
| * | * | * |

■ 78. In § 558.295, revise paragraph (a) to read as follows:

**§ 558.295 Iodinated casein.**

(a) *Specifications.* Type A medicated article containing iodinated casein.

* * * * *

■ 79. In § 558.305, revise paragraph (b) to read as follows:

**§ 558.305 Laidlomycin.**

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

■ 80. In § 558.311:

■ a. Revise paragraphs (a), (b), and (d)(7);

■ b. Add a heading and introductory text for paragraph (e);

■ c. Revise paragraph (e)(1);

■ d. Redesignate paragraphs (e)(2) through (5) as paragraphs (e)(5) through (8);

■ e. Add new paragraphs (e)(2) through (4); and

■ f. In the table in newly redesignated paragraph (e)(6)(i), revise the last row.

The revisions and additions read as follows:

**§ 558.311 Lasalocid.**

(a) *Specifications.* Each pound of Type A medicated article contains 68 grams (15 percent), 90.7 grams (20 percent), or 150 grams (33.1 percent) lasalocid as lasalocid sodium activity. A minimum of 90 percent of lasalocid activity is derived from lasalocid A.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

(d) * * *

(7) Each use in a free-choice Type C cattle feed as in paragraphs (e)(3)(vi) through (e)(3)(viii) of this section must be the subject of an approved NADA or supplemental NADA as provided in § 510.455 of this chapter.

(e) *Conditions of use.* It is used as follows:

(1) The conditions of use for chickens are:

| Lasalocid in grams/ton | Combination in grams/ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|---|
| (i) 68 to 113 | | Broiler or fryer chickens: For prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima*.. | Feed continuously as the sole ration | 054771 |
| (ii) 68 | Bacitracin methylenedisalicylate, 10 to 50. | Broiler chickens: For prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* and for increased rate of weight gain and improved feed efficiency.. | Feed continuously as the sole ration. Bacitracin methylenedisalicylate provided by No. 054771 in § 510.600(c) of this chapter. | 054771 |
| (iii) 68 to 113 | Bacitracin methylenedisalicylate, 4 to 50. | Broiler chickens: For prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* and for improved feed efficiency.. | Feed continuously as the sole ration. Bacitracin methylenedisalicylate provided by No. 054771 in § 510.600(c) of this chapter. | 054771 |
| (iv) 68 to 113 | Bacitracin zinc, 4 to 50 | Broiler chickens. For prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* and for increased rate of weight gain and improved feed efficiency.. | Feed continuously as the sole ration. Bacitracin zinc provided by No. 054771 in § 510.600(c) of this chapter. | 054771 |
| (v) 68 to 113 | Bambermycins, 1 to 2 | Broiler chickens: For prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* and for increased rate of weight gain and improved feed efficiency.. | Feed continuously as sole ration. Bambermycins provided by No. 016592 in § 510.600(c) of this chapter. | 016592 |

(2) The conditions of use for turkeys are:

| Lasalocid in grams/ton | Combination in grams/ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|---|
| (i) 68 to 113 | | Growing turkeys; For prevention of coccidiosis caused by *Eimeria meleagrimitis, E. gallopavonis,* and *E. adenoeides*.. | Feed continuously as sole ration | 054771 |
| (ii) 68 to 113 | Bacitracin methylenedisalicylate, 4 to 50. | Growing turkeys: For prevention of coccidiosis caused by *E. meleagrimitis, E. gallopavonis,* and *E. adenoeides;* and for increased rate of weight gain and improved feed efficiency.. | Feed continuously as the sole ration. Bacitracin methylenedisalicylate as provided by No. 054771 in § 510.600(c) in this chapter. | 054771 |
| (iii) 68 to 113 | Bacitracin zinc, 4 to 50 | Growing turkeys: For prevention of coccidiosis caused by *E. meleagrimitis, E. gallopavonis,* and *E. adenoeides;* and for increased rate of weight gain and improved feed efficiency.. | Feed continuously as the sole ration. Bacitracin zinc as provided by No. 054771 in § 510.600(c) in this chapter. | 054771 |

(3) The conditions of use for cattle are—

| Lasalocid amount | Indications for use | Limitations | Sponsor |
|---|---|---|---|
| (i) 10 to 30 grams/ton of feed | Cattle fed in confinement for slaughter: For improved feed efficiency.. | Feed continuously in complete feed to provide not less than 100 milligrams (mg) nor more than 360 mg of lasalocid sodium activity per head per day. | 054771 |
| (ii) 25 to 30 grams/ton of feed | Cattle fed in confinement for slaughter: For improved feed efficiency and increased rate of weight gain.. | Feed continuously in complete feed to provide not less than 250 mg nor more than 360 mg of lasalocid sodium activity per head per day. | 054771 |
| (iii) Not less than 60 mg or more than 300 mg of lasalocid per head per day. | Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): For increased rate of weight gain.. | Feed continuously at a rate of not less than 60 mg or more than 300 mg of lasalocid per head per day when on pasture. The drug must be contained in at least 1 pound of feed. Daily intakes of lasalocid in excess of 200 mg/head/day have not been shown to be more effective than 200 mg/head/day. | 054771 |
| (iv) 1 mg lasalocid per 2.2 pounds (lb) body weight per day. | Cattle up to 800 lb: For control of coccidiosis caused by *Eimeria bovis* and *E. zuernii*.. | Hand feed continuously at a rate of 1 mg of lasalocid per 2.2 lb body weight per day to provide not more than 360 mg of lasalocid per head per day. | 054771 |
| (v) 1 mg lasalocid per 2.2 lb body weight per day. | Replacement calves: For control of coccidiosis caused by *E. bovis* and *E. zuernii*.. | In milk replacer powder, hand feed at a rate of 1 mg of lasalocid per 2.2 lb body weight per day. A withdrawal period has not been established for lasalocid in pre-ruminating calves. Do not use in calves to be processed for veal. | 054771 |
| (vi) 1,440 grams/ton | Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): For increased rate of weight gain.. | As a free-choice Type C medicated loose mineral, feed continuously at a rate of not less than 60 mg nor more than 200 mg of lasalocid per head per day. | 012286 |
| (vii) 1,440 grams/ton | Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): For increased rate of weight gain.. | As a free-choice Type C medicated mineral block, feed continuously at a rate of not less than 60 mg nor more than 200 mg of lasalocid per head per day. | 017800 |
| (viii) 300 grams/ton | Pasture cattle (slaughter, stocker, feeder cattle, and dairy and beef replacement heifers): for increased rate of weight gain.. | As a free-choice Type C medicated protein block, feed continuously at a rate of not less than 60 mg nor more than 200 mg of lasalocid per head per day. | 067949 |

(4) The conditions of use for minor species are:

| Lasalocid in grams/ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|
| (i) 20 to 30 | Sheep maintained in confinement: For prevention of coccidiosis caused by *Eimeria ovina, E. crandallis, E. ovinoidalis (E. ninakohlyakimovae), E. parva,* and *E. intricata*.. | Feed continuously in complete feed to provide not less than 15 milligrams (mg) nor more than 70 mg of lasalocid sodium activity per head per day depending on body weight. | 054771 |
| (ii) 113 | Chukar partridges: For prevention of coccidiosis caused by *E. legionensis*.. | Feed continuously as sole ration up to 8 weeks of age | 054771 |
| (iii) 113 | Rabbits: For prevention of coccidiosis caused by *E. stiedae*.. | Feed continuously as sole ration up to 6 1/2 weeks of age | 054771 |

* * * * *

(6) * * *

(i) * * *

| Ingredient | Percent | International feed No. |
|---|---|---|
| * * * * * * * | | |
| Lasalocid liquid Type A medicated article (90.7 g/lb)[2] | 0.083 | |

* * * * *

■ 81. In § 558.325, revise paragraphs (b) and (e)(1)(ix) to read as follows:

**§ 558.325 Lincomycin.**

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

(e) * * *

(1) * * *

| Lincomycin grams/ton | Combination in grams/ton | Indications for use | Limitations | Sponsors |
|---|---|---|---|---|

[2] To provide 150 gm lasalocid per ton, use 1.652 lb (0.083%) of a lasalocid liquid Type A medicated article containing 90.7 g/lb. If using a dry lasalocid Type A medicated article containing 68 g/lb, use, use 2.206 lbs per ton (0.111%), replacing molasses. If using a dry lasalocid Type A medicated article containing 90.7 g/lb, use 1.652 lbs per ton (0.083%), adding molasses.

| Lincomycin grams/ton | Combination in grams/ton | Indications for use | Limitations | Sponsors |
|---|---|---|---|---|
| * | * | * | * | * |
| (ix) 2 ..... | Salinomycin, 40 to 60. | Broiler chickens: For the control of necrotic enteritis caused or complicated by *Clostridium* spp. or other organisms susceptible to lincomycin, and for the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E maxima, E. brunetti,* and *E. mivati.* | Feed as the sole ration to broiler chickens. Do not feed to laying hens producing eggs for human consumption. Not approved for use with pellet binders. May be fatal if accidentally fed to adult turkeys or horses. Not for use in laying hens, breeding chickens, or turkeys. Do not allow rabbits, hamsters, guinea pigs, horses, or ruminants access to feeds containing lincomycin. Ingestion by these species may result in severe gastrointestinal effects. Salinomycin as provided by No. 054771 in § 510.600 of this chapter. | 05477 |
| * | * | * | * | * |

* * * * *

■ 82. In § 558.342, revise paragraph (b) to read as follows:

**§ 558.342 Melengestrol.**

* * * * *

(b) *Sponsor.* See sponsors in § 510.600(c) of this chapter for use as in paragraph (e) of this section.

* * * * *

■ 83. In § 558.355, revise paragraphs (b) introductory text, (d)(9)(i) and (ii), and (d)(10)(i) and (ii) to read as follows:

**§ 558.355 Monensin.**

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter as follows:

* * * * *

(d) * * *

(9) * * *

(i) *Cattle (as described in paragraphs (f)(3)(i) through (iii), (vi), and (vii) and (f)(4)(i) through (vi) of this section).* See paragraphs (d)(6) and (d)(7)(i) through (v), (vii), and (viii) of this section.

(ii) *Dairy cows (as described in paragraphs (f)(3)(iv) and (v) of this section).* See paragraphs (d)(6) and (d)(7)(i) through (iv), (vii), (viii), and (ix) of this section.

* * * * *

(10) * * *

(i) *Cattle (as described in paragraphs (f)(3)(i) through (iii), (vi), and (vii) and (f)(4)(i) through (vi) of this section).* See paragraphs (d)(6) and (d)(7)(i), (v), (vii), and (viii) of this section. Paragraph (d)(7)(vii) of this section does not apply to free-choice Type C medicated feeds as defined in § 510.455 of this chapter.

(ii) *Dairy cows (as described in paragraphs (f)(3)(iv) and (v) of this section).* See paragraphs (d)(6) and (d)(7)(i), (vii), (viii), and (ix) of this section. Paragraph (d)(7)(vii) of this section does not apply to free-choice Type C medicated feeds as defined in § 510.455 of this chapter.

* * * * *

■ 84. In § 558.363, revise paragraph (a) to read as follows:

**§ 558.363 Narasin.**

(a) *Specifications.* Type A medicated articles containing 36, 45, 54, 72, or 90 grams narasin per pound.

* * * * *

■ 85. In § 558.364, revise paragraph (d)(1)(ii) to read as follows:

**§ 558.364 Naracin and nicarbazin.**

* * * * *

(d) * * *

(1) * * *

| Narasin and nicarbazin grams/ton | Combination in grams/ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|---|
| * | * | * | * | * |
| (ii) 27 to 45 of each drug. | Bacitracin methylenedisalicylate, 4 to 50. | Broiler chickens: For the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima,* and for increased rate of weight gain and improved feed efficiency. | Feed continuously as sole ration. Do not feed to laying hens. Do not allow turkeys, horses, or other equines access to formulations containing narasin. Ingestion of narasin by these species has been fatal. For No. 054771: Withdraw 5 days before slaughter. For No. 069254: Zero withdrawal period. Bacitracin methylenedisalicylate as provided by Nos. 054771 and 069254 in § 510.600(c) of this chapter. | 058198<br>069254 |
| * | * | * | * | * |

* * * * *

■ 86. In § 558.366, revise paragraph (b) to read as follows:

**§ 558.366 Nicarbazin.**

* * * * *

(b) *Sponsors.* See Nos. 058198, 060728, and 066104 in § 510.600(c) of this chapter.

* * * * *

■ 87. In § 558.450, revise paragraph (e)(5)(iv) to read as follows:

**§ 558.450 Oxytetracycline.**

* * * * *

(e) * * *

(5) * * *

| Oxytetracycline amount | Indications for use | Limitations | Sponsor |
|---|---|---|---|
| * | * | * | * |
| (iv) 3.75 g/100 lb of fish/day. | 1. Freshwater-reared salmonids: For control of mortality due to coldwater disease associated with *Flavobacterium psychrophilum.* | Administer in mixed ration for 10 days. Do not liberate fish or slaughter fish for food for 21 days following the last administration of medicated feed.. | 066104 |

| Oxytetracycline amount | Indications for use | Limitations | Sponsor |
|---|---|---|---|
| | 2. Freshwater-reared *Oncorhynchus mykiss:* For control of mortality due to columnaris disease associated with *Flavobacterium columnare.* | Administer in mixed ration for 10 days. Do not liberate fish or slaughter fish for food for 21 days following the last administration of medicated feed.. | 066104 |
| | 3. Freshwater-reared salmonids weighing up to 55 grams: For marking the skeletal tissue. | Feed for 10 days. Immediate release is permitted following last feeding of medicated feed.. | 066104 |
| * * * * * * * | | | |

**§ 558.465 [Removed]**

■ 88. Remove § 558.465.

■ 89. Add § 558.470 to read as follows:

**§ 558.470 Polyoxyethylene.**

(a) *Specifications.* Each molasses-based block contains 2.2 percent polyoxyethylene (23) lauryl ether.

(b) *Sponsor.* See No. 067949 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use*—(1) *Amount.* 2 grams of polyoxyethylene (23) lauryl ether per 100 kilograms of body weight per day (1 pound of block per 500 kilogram (1,100 pound) animal per day). Initially, provide one block per five head of cattle. Start treatment 10 to 14 days before exposure to bloat-producing pastures.

(2) *Indications for use.* For reduction of the incidence of bloat (alfalfa and clover) in pastured cattle.

(3) *Limitations.* Administer free-choice to beef cattle and nonlactating dairy cattle only. Do not allow cattle access to other sources of salt while being fed this product. Do not feed this product to animals without adequate forage/roughage consumption.

■ 90. In § 558.485, revise paragraph (b) introductory text to read as follows:

**§ 558.485 Pyrantel.**

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for use as follows:

* * * * *

■ 91. In § 558.500, revise paragraph (b) to read as follows:

**§ 558.500 Ractopamine.**

* * * * *

(b) *Sponsor.* See Nos. 054771 and 058198 in § 510.600(c) of this chapter.

* * * * *

■ 92. In § 558.515:

■ a. Revise paragraph (a);

■ b. Redesignate paragraphs (b), (d), and (e) as paragraphs (d), (e), and (f); and

■ c. Add new paragraph (b).

The revision and addition read as follows:

**§ 558.515 Robenidine.**

(a) *Specifications.* Type A medicated articles containing 30 grams per pound.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

■ 93. In § 558.550:

■ a. Revise paragraphs (a), (b), (e)(1)(i), and (e)(2)(i);

■ b. Add a heading for paragraph (e)(3);

■ c. Redesignate paragraphs (e)(3)(i) through (iv) as paragraphs (e)(3)(ii) through (v); and

■ d. Add new paragraph (e)(3)(i).

The revisions and additions read as follows:

**§ 558.550 Salinomycin.**

(a) *Specifications.* Type A medicated articles containing:

(1) 30 grams of salinomycin sodium activity per pound; or

(2) 60 grams of salinomycin sodium activity per pound.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter as follows:

(1) No. 016592 for product described in paragraph (a)(1) of this section.

(2) Nos. 016592 and 069254 for product described in paragraph (a)(2) of this section.

* * * * *

(e) * * *

(1) * * *

| Salinomycin in grams/ton | Combination in grams/ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|---|
| (i) 40 to 60 | | Broiler, roaster, and replacement (breeder and layer) chickens: For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.* | Feed continuously as sole ration. Do not feed to birds producing eggs for human consumption. May be fatal if accidentally fed to adult turkeys or horses.. | 016592<br>069254 |
| * * * * * * * | | | | |

(2) * * *

| Salinomycin in grams/ton | Combination in grams/ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|---|
| (i) 50 | | Quail: For the prevention of coccidiosis caused by *Eimeria. dispersa* and *E. lettyae.* | Feed continuously as sole ration. Do not feed to birds producing eggs for human consumption. May be fatal if accidentally fed to adult turkeys or horses.. | 016592<br>069254 |
| * * * * * * * | | | | |

(3) *Combinations.* * * *

(i) Avilamycin as in § 558.68.

* * * * *

■ 94. In § 558.555, revise paragraph (b) to read as follows:

**§ 558.555 Semduramicin.**

* * * * *

(b) *Sponsor.* See No. 066104 in § 510.600(c) of this chapter for use of product described in paragraph (a)(1) of this section as in paragraph (d) of this section; for use of product described in paragraph (a)(2) of this section as in paragraph (e) of this section.

* * * * *

■ 95. In § 558.575, revise paragraph (b) introductory text to read as follows:

**§ 558.575 Sulfadimethoxine and ormetoprim.**

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter as follows:

* * * * *

■ 96. In § 558.600, revise paragraphs (a) and (d) to read as follows:

**§ 558.600 Thiabendazole.**

(a) *Specifications.* Dry Type A medicated articles containing 22, 44.1, 66.1, or 88.2 percent thiabendazole.

* * * * *

(d) *Special considerations.* (1) The 66.1 percent Type A medicated article is solely for the manufacture of cane molasses liquid Type B feed, which is mixed in dry feeds.

(2) The 88.2 percent Type A medicated article is used solely for the manufacture of an aqueous slurry for adding to a Type C dry cattle feed.

(3) Do not use in Type B or Type C medicated feed containing bentonite.

* * * * *

■ 97. In § 558.612, revise paragraph (b) to read as follows:

**§ 558.612 Tiamulin.**

* * * * *

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

* * * * *

■ 98. In § 558.618, revise paragraph (b) to read as follows:

**§ 558.618 Tilmicosin.**

* * * * *

(b) *Sponsor.* See Nos. 016592 and 058198 in § 510.600(c) of this chapter.

* * * * *

■ 99. In § 558.680, revise paragraphs (b), (d)(1)(i) and (v), and (d)(2)(i) to read as follows:

**§ 558.680 Zoalene.**

* * * * *

(b) *Sponsors.* See Nos. 054771 and 058198 in § 510.600(c) of this chapter.

* * * * *

(d) * * *

(1) * * *

| Zoalene in grams/ton | Combination in grams per ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|---|
| (i) 36.3 to 113.5 ..... | ..... | Replacement chickens: For development of active immunity to coccidiosis. | Feed continuously as sole ration. Grower ration not to be fed to birds over 14 weeks of age. Starter ration not to be fed to laying birds. | 054771<br>058198 |

| Growing conditions | Starter ration grams per ton | Grower ration grams per ton |
|---|---|---|
| Severe exposure ..... | 113.5 (0.0125%) ..... | 75.4–113.5 (0.0083%–0.0125%) |
| Light to moderate exposure ..... | 75.4–113.5 (0.0083%–0.0125%) ..... | 36.3–75.4 (0.004%–0.0083%) |

| Zoalene in grams/ton | Combination in grams per ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|---|
| * | * | * | * * * * | * |
| (v) 113.5 ..... | ..... | Broiler chickens: For prevention and control of coccidiosis. | Feed continuously as sole ration. Not to be fed to laying birds | 054771<br>058198 |
| * | * | * | * * * * | * |

(2) * * *

| Zoalene in grams/ton | Combination in grams per ton | Indications for use | Limitations | Sponsor |
|---|---|---|---|---|
| (i) 113.5 to 170.3 .. | ..... | Growing turkeys: For prevention and control of coccidiosis. | Feed continuously as sole ration. For turkeys grown for meat purposes only. Not to be fed to laying birds.. | 054771<br>058198 |
| * | * | * | * * * * | * |

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Dated: March 4, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021–05203 Filed 3–18–21; 8:45 a.m.]

**BILLING CODE 4164–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R05–OAR–2016–0321; FRL–10021–50–Region 5]**

## Air Plan Approval; Michigan; Partial Approval and Partial Disapproval of the Detroit $SO_2$ Nonattainment Area Plan

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is partially approving and partially disapproving a revision to the Michigan State Implementation Plan (SIP) for attaining the 2010 1-hour primary sulfur dioxide ($SO_2$) national ambient air quality standard (NAAQS or ''standard'') for the Detroit $SO_2$ nonattainment area (NAA). This SIP revision (hereinafter called the ''Detroit $SO_2$ plan'' or ''plan'') includes Michigan's attainment demonstration and other elements required under the

Clean Air Act (CAA). EPA is approving the base year emissions inventory and affirming that the nonattainment new source review (NNSR) requirements for the area have been met. EPA is disapproving the attainment demonstration, as well as the requirements for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures and reasonably available control technology (RACM/RACT), and contingency measures. Finally, EPA is disapproving the plan's control measures for two facilities as not demonstrating attainment and is approving the enforceable control measures for two facilities as SIP strengthening.

**DATES:** This final rule is effective on April 19, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0321. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312) 886–9401 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–9401, *Arra.Sarah@epa.gov.*

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

## I. What actions did EPA propose on this SIP submission?

On September 18, 2020, [1] EPA proposed to partially approve and partially disapprove a revision to the Michigan SIP submitted on May 31, 2016, supplemented on June 30, 2016. EPA proposed to take the following actions:

(1) EPA proposed to disapprove Michigan Administrative Code (MAC) 336.1430 (''Rule 430'') because the Michigan Court of Claims invalidated Rule 430 on October 4, 2017. Therefore, there is no enforceable rule remaining at the state level for EPA to incorporate into the SIP.

(2) EPA proposed to disapprove the Detroit $SO_2$ attainment plan pursuant to 172(c) and 192(a), because it relied on Rule 430 to demonstrate attainment, which can no longer be relied on as an enforceable mechanism.

(3) Because of the lack of enforceable measures from Rule 430, the remaining control strategies can no longer be assessed as a part of a complete attainment demonstration. Instead, EPA proposed to approve two permits as SIP strengthening, Carmeuse Lime's Permit to Install 193–14A and DTE Energy—Trenton Channel's Permit to Install 125–11C. SIP strengthening is appropriate for limits that improve air quality but do not meet a specific CAA requirement.

(4) EPA proposed to disapprove the DTE River Rouge permit, Permit to Install 40–08H, because it was recently superseded by a new permit to install, not included in the SIP package, that corrected an error in the long-term averaging calculation for the superseded permit.

(5) EPA proposed to approve the 2012 baseline inventory as meeting the requirements of CAA section 172(c)(3) and (4) for the Detroit $SO_2$ NAA.

(6) EPA proposed to affirm that the new source review requirements for the area have been met because Michigan has a fully approved NNSR Program.[2]

(7) Because the Detroit plan is missing enforceable measures for some major sources of $SO_2$ and is therefore not able to demonstrate attainment, EPA proposed to disapprove the following:

—The requirements in CAA sections 172(c)(1) and (6) to adopt and submit all RACM/RACT and emissions limitations or control measures as needed to attain the standard as expeditiously as practicable.

—The requirement in section 172(c)(2) to provide for RFP toward attainment in the Detroit $SO_2$ NAA.

—The requirement in section 172(c)(9) to provide for contingency measures to be undertaken if the area fails to make RFP or to attain NAAQS by the attainment date.

EPA's action to disapprove portions of the Detroit attainment plan will start new sanctions clocks under CAA section 179(a)–(b) which can be stopped only if the conditions of EPA's regulations at 40 CFR 52.31 [3] are met. Only a full SIP approval or EPA's promulgation of a Federal implementation plan (FIP) under CAA section 110(c)(1) can stop FIP clocks, so this action does not have any effect on the FIP clock that started April 18, 2016.[4]

## II. What is our response to comments received on the proposed rulemaking?

The proposed action described above had a public comment period that closed October 19, 2020, and then by request, was reopened until November 16, 2020. This action received 21 supportive comments, nine comments not directly relevant to the rulemaking, and a joint comment letter from Sierra Club and Earth Justice that was partially adverse. This joint comment letter is summarized below along with EPA's responses.

*Comment:* The commenters contend that the state's modeling contains several flaws and the modeling methodology should be explicitly disapproved. The commenters went on to point out several elements with which they took issue in the modeling. The commenters additionally provided their own modeling demonstration showing further reductions needed from several sources in the area.

*Response:* The state's modeling is part of the attainment demonstration which is being disapproved as part of this action. Because the attainment demonstration is not approvable due to enforceability issues, it is not necessary for EPA to determine whether or not the modeling supports attainment, when the modeling relies on limits that no longer exist. However, EPA has taken note of the modeling concerns in this comment letter and will include them for consideration during the continued attainment planning efforts for this area.

*Comment:* The commenters pointed out that the reason for the invalidation of Rule 430 was because Michigan does not have authority to impose facility-specific limits. The commenters contend that EPA should consider whether a SIP-call under CAA section 110(k)(5) is needed due to Michigan appearing to not meet the requirement of section 110(a)(2)(E)(i) to have adequate authority to carry out its implementation plan. EPA should also

[1] 85 FR 58315.

[2] 78 FR 76064 (December 16, 2013).

[3] EPA's regulations regarding the implementation of sanctions requirements required by 179(a).

[4] 81 FR 14736 (March 18, 2016).

move forward with a FIP if the state lacks proper authority.

*Response:* Although prohibitions on adoption of individual facility limits in state rules is not uncommon, in this situation it resulted in some of the State's submitted SIP limits being invalidated under state law, which precludes approval of the attainment demonstration and of those limits. EPA expects now that Michigan will draft future rules to avoid this prohibition which resulted in invalid limits and make necessary efforts to properly implement the NAAQS. Additionally, EPA is actively working on continued attainment planning efforts for this area, and the result of this SIP disapproval action will be to impose CAA section 179 sanctions if the State does not take necessary steps to correct the deficiencies giving rise to the disapproval. Consequently, in this final action EPA is not prepared to exercise its discretion to issue a CAA section 110(k)(5) SIP Call to Michigan regarding this issue, and notes that the State is already obligated to remedy the deficiencies that would be addressed by any additional SIP Call under section 110(k)(5), which, if issued, would occur under its own separate notice and comment process. In addition, in this final action EPA is not able to additionally promulgate a FIP under CAA section 110(c), as that requires its own notice and comment rulemaking process pursuant to CAA section 307(d). Consequently, this final action to partially approve and partially disapprove the submitted SIP does not include any final action under section 110(k)(5) regarding whether to issue a SIP Call, or under section 110(c) to promulgate a FIP.

*Comment:* The commenters recommended that EPA not approve the Trenton Channel permit as SIP strengthening because the limit is above the plant's actual current emissions and, therefore, does not immediately improve air quality. Additionally, the commenters contend that if included, the limits should undergo a robust analysis on how the 30-day average is appropriate to meet the one-hour standard.

*Response:* EPA disagrees with both points. The permit's inclusion into the SIP does improve air quality because it restricts the facility's potential to emit at higher levels in the future compared to currently allowable levels, even if the facility is not currently emitting at the permit's levels or the even higher levels allowed under the current SIP. Additionally, the 30-day average does not need to be evaluated as to whether it is sufficient to provide attainment under the one-hour NAAQS, because the permit is not currently being approved as part of a strategy to meet that standard. However, if the permit is relied on in future attainment planning efforts, a robust analysis of the 30-day averaging limit (and any other limits relied upon in such a future demonstration) will be provided. In this action, EPA makes no final judgment on whether the 30-day limit combined with other future possible limits will provide for NAAQS attainment.

*Comment:* The commenters stated that EPA should not approve the 2012 base year inventory because it does not meet the CAA section 172(c)(3) requirements of being ''comprehensive, accurate, [and] current''. The commenters attempted to demonstrate this by showing emission increases at two sources when comparing 2012 to 2018 annual emissions.

*Response:* During the attainment planning and eventual redesignation process, three different inventories are considered and approved: Base year, attainment year, and future maintenance year. This action is only approving the base year inventory. Base year inventories are a nonattainment year upon which all future attainment work is based. Regarding the commenters' claim that the 2012 inventory is out of date, when Michigan began their attainment planning, 2012 was the most current year with available emissions data. EPA would not expect a base year inventory to be amended because time has passed since the submittal date. The 2018 data would not have been available until 2019 at the earliest, which was three years after the state's submittal. EPA disagrees with the commenters' second issue, that the 2012 inventory is inaccurate. The commenters' examples of 2018 emissions are from the Michigan Air Emissions Reporting System (MAERS), publicly available annual emissions data for all major sources in Michigan. The commenters compared the emissions increase at two sources between 2012 and 2018 to show inaccuracy in the base year inventory. EPA disagrees that this data proves inaccuracies, but rather demonstrates the variability of emissions over time, generally due to economic factors, *i.e.* increased affordability of natural gas lowering emissions and increased manufacturing due to economic demands increasing emissions. When comparing all the sources in the inventory from 2012 to 2018, total emissions have decreased by 82 percent, shown in Table 1 below as tons per year (tpy) of $SO_2$ emissions.

TABLE 1—DETROIT AREA 2012 AND 2018 EMISSIONS COMPARISON

| Source | 2012 Emissions (tpy) | 2018 Emissions (tpy) |
|---|---|---|
| River Rouge | 8,202.52 | 2,118.48 |
| Trenton Channel | 22,426.12 | 3,114.04 |
| Monroe | 49,150.63 | 3,854.35 |
| Carmeuse Lime | 699.69 | 482.79 |
| Severstal Steel | 677.12 | 571.74 |
| DIG | 597.88 | 820.17 |
| Marathon | 137.34 | 168.39 |
| U.S. Steel | 2,874.30 | 1,482.91 |
| EES Coke | 1,900.77 | 3,253.76 |
| Total | 86,666.37 | 15,866.63 |

Emissions inventories are always likely to vary year to year, but that does not deem a previous year's inventory inaccurate. As an example, Dearborn Industrial Generation (DIG), one of the sources pointed out by the commenters as increasing emissions between 2012 and 2018, varies greatly year to year. Looking at data over the most recent 15

years in MAERS, 2003 to 2018, DIG had a lowest value of 364.61 tpy in 2009 and a highest value of 1,038.72 tpy in 2016, showing that the 2012 and 2018 years are both in the middle of the normal annual fluctuations. The eventual action to approve or disapprove an attainment year inventory will consider changes in emissions levels during the attainment planning period, including the differences pointed out in the comment between 2012 and 2018, and additional reductions needed to bring the area into attainment. However, the eventual development of an attainment year inventory will not change the factual basis of the base year inventory. The attainment planning process will account for these possible fluctuations by focusing on potential to emit rather than the actual inventories of any given year. Therefore, EPA believes 2012 is appropriate for a base year inventory, and that the submitted 2012 base year inventory is approvable for its purposes of charactering what emissions were in that base year.

*Comment:* The commenters pointed to the language from EPA's proposed approval stating, ''EPA modeling demonstrates that attainment at violating receptors can be achieved when the emission limits in the DTE Trenton Channel Permit are analyzed together with those contained in a recently issued permit for the DTE River Rouge facility (Permit to Install 40–08I)'' and contended that EPA should not finalize a finding that revisions to the DTE Trenton Channel and River Rouge permits would be enough to achieve attainment.

*Response:* EPA is not finalizing a finding that revisions to the DTE Trenton Channel and River Rouge permits would be enough to achieve attainment of the one-hour standard. Such a final determination could be made only upon approval of the state's attainment plan or as part of EPA's promulgation of a FIP. EPA meant this discussion to explain the reasoning for DTE River Rouge alone to obtain a new permit in response to a calculation error found in both the River Rouge and Trenton Channel 30-day averaging limits. EPA is clarifying that these changes alone do not prejudge whether these or any other measures will or will not result in attainment for the entire Detroit area.

*Comment:* The commenters are supportive of the disapproval of the RACT/RACM, RFP, and contingency measure elements and recommended EPA finalize as expeditiously as possible. The commenters additionally supplied recommendations for next steps in replacing the disapproved portions of this plan.

*Response:* In addition to the modeling recommendations, EPA will also consider the ''next steps'' recommendations in this letter as a part of the ongoing attainment planning efforts.

## III. What action is EPA taking?

EPA is finalizing the following actions as proposed: EPA is approving the base year inventory and affirming that the new source review requirements for the area have been met. EPA is also approving the DTE Trenton Channel and Carmeuse Lime permits as SIP strengthening. EPA is proposing to disapprove the attainment demonstration, as well as the requirement for meeting RFP toward attainment of the NAAQS, RACM/RACT, contingency measures, the invalidated Rule 430 related to U.S. Steel, and the superseded 2016 permit related to DTE River Rouge. This disapproval will start new sanctions clocks for this area under CAA section 179(a)–(b).

## IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Michigan Regulations described in the amendments to 40 CFR part 52 set forth below. 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). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[5]

## 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. 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).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

[5] 62 FR 27968 (May 22, 1997).

Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

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

Dated: March 11, 2021.

**Cheryl Newton,**

*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, EPA amends title 40 CFR part 52 as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Amend § 52.1170 by:

■ a. In the table in paragraph (d) adding in alphabetic order entries for ''Carmeuse Lime, Wayne County'' and ''DTE Energy—Trenton Channel, Wayne County'';

■ b. In the table in paragraph (e) adding an entry for ''2010 $SO_2$ Standard 2012 base year'' after the entry for ''2008 lead (Pb) 2013 base year'' under the sub-heading ''Emissions Inventories''.

The additions read as follows:

**§ 52.1170 Identification of plan.**

* * * * *

(d) * * *

EPA—APPROVED MICHIGAN SOURCE-SPECIFIC PROVISIONS

| Name of source | Order number | State effective date | EPA approval date | Comments |
|---|---|---|---|---|
| * * | * * | * | * * | * |
| Carmeuse Lime, Wayne County ... | Permit 193–14A ..... | March 18, 2016 | March 19, 2021, [INSERT **Federal Register** CITATION]. | |
| * * | * * | * | * * | * |
| DTE Energy—Trenton Channel, Wayne County. | Permit 125–11C ..... | April 29, 2016 | *March 19, 2021,* [INSERT **Federal Register** CITATION]. | |
| * * | * * | * | * * | * |

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(e) * * *

EPA—APPROVED MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

| Name of nonregulatory SIP provision | Applicable geographic or nonattainment area | State submittal date | EPA approval date | Comments |
|---|---|---|---|---|
| * * | * * | * | * * | * |
| **Emission Inventories** | | | | |
| * * | * * | * | * * | * |
| 2010 $SO_2$ Standard ..... 2012 base year | Detroit area (Wayne County, part) | May 31, 2016 | March 19, 2021, [INSERT **Federal Register** CITATION]. | |
| * * | * * | * | * * | * |

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[FR Doc. 2021–05508 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

**[EPA–R09–OAR–2019–0145; FRL–10019–97–Region 9]**

### Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 $PM_{2.5}$ NAAQS; Correcting Amendment

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

**ACTION:** Correcting amendment.

**SUMMARY:** On November 9, 2020, the Environmental Protection Agency (EPA) issued a final rule titled ''Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 $PM_{2.5}$ NAAQS.'' That publication inadvertently omitted from the description of the Riverside County portion of the designated area, language indicating that the lands of the Santa Rosa Band of Cahuilla Mission Indians and Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation are excluded from that portion of the Los Angeles-South Coast Air Basin nonattainment area for the 2012 national ambient air quality standard (NAAQS) for fine particulate matter ($PM_{2.5}$). This document corrects the error in the regulatory text.

**DATES:** This rule is effective on March 19, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0145. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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:** Ashley Graham, Air Planning Office (AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3877 or by email at *graham.ashleyr@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On November 9, 2020, the EPA issued a final rule titled ''Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; California; South Coast Moderate Area Plan and Reclassification as Serious Nonattainment for the 2012 $PM_{2.5}$ NAAQS.'' [1] That publication inadvertently omitted from the description of the Riverside County portion of the designated area, language indicating that the lands of the Santa Rosa Band of Cahuilla Mission Indians and Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation are excluded from that portion of the Los Angeles-South Coast Air Basin nonattainment area for the 2012 $PM_{2.5}$ NAAQS. This action corrects the omission and revises the entry as intended in the November 9, 2020 final rule.

The EPA has determined that this action falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action are unnecessary because the underlying rule for which this correcting amendment has been prepared was already subject to a 30-day comment period, and this action merely corrects an error in the rule text. Further, this action is consistent with the purpose and rationale of the final rule, which is corrected herein. Because this action does not change the EPA's analyses or overall actions, no purpose would be served by additional public notice and comment. Consequently, additional public notice and comment are unnecessary.

The EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date of less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This action merely corrects an error in a previous rulemaking. For these reasons, the EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

**Statutory and Executive Order Reviews**

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 not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Is not subject to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4);
- Does not impose a significant intergovernmental mandate or significantly or uniquely affect small governments, as described in sections 203 and 204 of the UMRA;
- 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 this error correction action does not involve technical standards; and
- Does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land

[1] 85 FR 71264.

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).

In issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

The Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the Agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of March 19, 2021. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to 40 CFR part 81 for California is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, Particulate matter.

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

Dated: March 11, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

For the reasons stated in the preamble, the EPA corrects Part 81, Chapter I, Title 40 of the Code of Federal Regulations by making the following correcting amendments:

## PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 1. The authority citation for Part 81 continues to read as follows:

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

### Subpart C—Section 107 Attainment Status Designations

■ 2. In section 81.305 amend the table titled ''California—2012 Annual $PM_{2.5}$ NAAQS [Primary],'' by revising the entries under ''Riverside County (part)'' under ''Los Angeles-South Coast Air Basin, CA'' to read as follows:

**§ 81.305 California.**

* * * * *

CALIFORNIA—2012 ANNUAL $PM_{2.5}$ NAAQS

[Primary]

| Designated area [1] | Designation | | Classification | |
|---|---|---|---|---|
| | Date [2] | Type | Date [2] | Type |
| Los Angeles-South Coast Air Basin, CA: | | | | |
| * * * * | * | * | * | |
| Riverside County (part): That portion of Riverside County which lies to the west of a line described as follows: Beginning at the Riverside-San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; then east along the Township line common to Township 8 South and Township 7 South; then north along the range line common to Range 5 East and Range 4 East; then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; then west along the Township line common to Township 5 South and Township 6 South; then north along the range line common to Range 4 East and Range 3 East; then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; then north along the range line common to Range 2 East and Range 3 East; to the Riverside-San Bernardino County line (excluding the lands of the Santa Rosa Band of Cahuilla Mission Indians, and excluding the lands of the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation). | ..... | Nonattainment ..... | December 9, 2020 .. | Serious. |
| * * * * | * | * | * | |

[1] Includes areas of Indian country located in each county or area, except as otherwise specified.
[2] This date is April 15, 2015, unless otherwise noted.

* * * * *

[FR Doc. 2021–05514 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 131

**[EPA–HQ–OW–2016–0694; FRL–10019–00–OW]**

**RIN 2040–AF70**

## Federal Aluminum Aquatic Life Criteria Applicable to Oregon

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) is promulgating Federal criteria for fresh waters in the State of Oregon that are jurisdictional under the Clean Water Act (CWA) to protect aquatic life from the effects of exposure to harmful levels of aluminum. EPA disapproved of Oregon's freshwater acute and chronic aluminum criteria in 2013. The CWA directs EPA to promptly propose water quality standards (WQS) addressing the Agency's disapproval and to promulgate those WQS unless, prior to such promulgation, the state adopts WQS addressing EPA's disapproval that the Agency determines meet the requirements of the CWA and EPA approves. Since Oregon has not adopted and submitted revised freshwater acute and chronic aluminum criteria to address EPA's 2013 disapproval, EPA is promulgating Federal freshwater acute and chronic aluminum criteria to protect aquatic life uses in Oregon as the applicable WQS under the CWA. If, at some point in the future, Oregon submits and EPA approves revised freshwater acute and chronic aluminum criteria to address EPA's 2013 disapproval, EPA would withdraw this regulation.

**DATES:** This rule is effective on April 19, 2021. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of April 19, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2016–0694. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mimi Soo-Hoo, Office of Water, Standards and Health Protection Division (4305T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566–1192; email address: *soo-hoo.mimi@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This final rule is organized as follows:

I. General Information
A. Does this action apply to me?
B. How did EPA develop this final rule?
II. Background
A. Statutory and Regulatory Authority
B. EPA's Disapproval of Oregon's Freshwater Aluminum Criteria
C. General Recommended Approach for Deriving Aquatic Life Criteria
III. Freshwater Aluminum Aquatic Life Criteria
A. EPA's National CWA Section 304(a) Recommended Freshwater Aluminum Criteria
B. Final Acute and Chronic Aluminum Criteria for Oregon's Fresh Waters
C. Implementation of Final Freshwater Acute and Chronic Aluminum Criteria in Oregon
D. Incorporation by Reference
IV. Critical Low Flows and Mixing Zones
V. Endangered Species Act
VI. Under what conditions would Federal standards be withdrawn?
VII. Alternative Regulatory Approaches and Implementation Mechanisms
A. Designating Uses
B. WQS Variances
C. NPDES Permit Compliance Schedules
VIII. Economic Analysis
IX. Statutory and Executive Order Reviews
A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)
B. Executive Order 13771 (Reducing Regulations and Controlling Regulatory Costs)
C. Paperwork Reduction Act
D. Regulatory Flexibility Act
E. Unfunded Mandates Reform Act
F. Executive Order 13132 (Federalism)
G. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)
H. Executive Order 13045 (Protection of Children From Environmental Health and Safety Risks)
I. Executive Order 13211 (Actions That Significantly Affect Energy Supply, Distribution, or Use)
J. National Technology Transfer and Advancement Act of 1995
K. Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)
L. Congressional Review Act (CRA)

## I. General Information

### *A. Does this action apply to me?*

Entities such as industrial facilities, stormwater management districts, or publicly owned treatment works (POTWs) that discharge pollutants to fresh waters of the United States under the State of Oregon's jurisdiction could be affected by this rule because Federal WQS promulgated by EPA in this rule will be the applicable WQS for fresh waters in Oregon for CWA purposes after the effective date of this rule. These WQS are the minimum standards which must be used in such CWA regulatory programs as National Pollutant Discharge Elimination System (NPDES) permitting [1] and identifying impaired waters under CWA Section 303(d). Categories and entities that could potentially be affected by this rule include the following:

| Category | Examples of potentially affected entities |
|---|---|
| Industry | Industrial point sources discharging pollutants to fresh waters of the United States in Oregon. |
| Municipalities | Publicly owned treatment works or similar facilities discharging pollutants to fresh waters of the United States in Oregon. |
| Stormwater Management Districts | Entities responsible for managing stormwater in the State of Oregon. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that could ultimately be affected by this action. Any parties or entities who depend upon or contribute to the water quality

[1] Before any water quality based effluent limit is included in an NPDES permit, the permitting authority (here, the State of Oregon), will first determine whether a discharge ''will cause or has the reasonable potential to cause, or contribute to an excursion above any WQS.'' 40 CFR 122.44(d)(1)(i) and (ii).

of Oregon's fresh waters could be affected by this rule. To determine whether your facility or activities could be affected by this action, you should carefully examine this rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

*B. How did EPA develop this final rule?*

EPA carefully considered the public comments and feedback received from interested parties on the proposal published in the **Federal Register** at 84 FR 18454 on May 1, 2019. EPA provided a 45-day public comment period and held two public hearings on June 11 and June 12, 2019, to provide clarification on the contents of the proposed rulemaking and to accept verbal public comments.

A total of eight organizations and individuals submitted comments either to the docket or during the public hearings on a range of issues prior to the close of the public comment period on June 17, 2019. Some comments addressed issues beyond the scope of this rule. Brief summaries of specific comments and EPA's responses are provided in this action. For a full accounting of the comments and the Agency's responses, see EPA's Response to Comments document in the official public docket for this rule.

## II. Background

*A. Statutory and Regulatory Authority*

CWA Section 303(c) (33 U.S.C. 1313(c)) directs states to adopt WQS for state waters subject to CWA jurisdiction. CWA Section 303(c)(2)(A) provides that WQS shall consist of designated uses of the waters and water quality criteria based on those uses. EPA's implementing regulations at 40 CFR 131.11(a)(1) provide that ''[s]uch criteria must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated use [and] [f]or waters with multiple use designations, the criteria shall support the most sensitive use.'' In addition, 40 CFR 131.10(b) provides that ''[i]n designating uses of a water body and the appropriate criteria for those uses, the [s]tate shall take into consideration the water quality standards of downstream waters and shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters.''

States review applicable WQS at least once every three years and, if appropriate, revise or adopt new WQS (CWA Section 303(c)(1); 40 CFR 131.20). Any new or revised WQS must be submitted to EPA for review and approval or disapproval (CWA Sections 303(c)(2)(A) and (c)(3); 40 CFR 131.20 and 131.21). If EPA disapproves a state's new or revised WQS as not consistent with CWA requirements, the state has 90 days to adopt a revised WQS that adopts the changes specified by EPA to meet CWA requirements. If the state fails to do so, EPA must promptly propose and then, within 90 days, promulgate such WQS unless the state has adopted a revised or new WQS that EPA determines to be consistent with CWA requirements (CWA Sections 303(c)(3) and (c)(4)).

Under CWA Section 304(a), EPA periodically publishes national criteria recommendations for states to consider when adopting water quality criteria for particular pollutants to meet the CWA Section 101(a)(2) goal. When EPA has published recommended criteria, states should establish numeric water quality criteria based on the Agency's CWA Section 304(a) recommended criteria, CWA Section 304(a) recommended criteria modified to reflect site-specific conditions, or other scientifically defensible methods (40 CFR 131.11(b)(1)). Water quality criteria must protect the designated use and be based on sound scientific rationale. For waters with multiple use designations, the criteria shall support the most sensitive use (40 CFR 131.11(a)(1)).

*B. EPA's Disapproval of Oregon's Freshwater Aluminum Criteria*

As explained in the preamble of the proposed rulemaking, EPA disapproved the State's freshwater aluminum criteria in 2013 because the State had not supplied a scientific rationale for the pH range under which the State's criteria would apply, which differed from the applicable pH range specified in EPA's 1998 national CWA Section 304(a) recommended criteria for aluminum (84 FR 18456–57, May 1, 2019) that existed at that time but have since been updated.

Under the terms of a consent decree (as amended) to resolve litigation in *Northwest Environmental Advocates* v. *U.S. EPA,* 3:15–cv–00663–BR (D. Or. 2015), EPA is required, no later than six months after the date on which the National Marine Fisheries Service (also known as National Oceanic and Atmospheric Administration (NOAA) Fisheries) issues its Biological Opinion on the aluminum criteria previously proposed by EPA, to either approve aluminum criteria to protect aquatic life in fresh waters submitted by Oregon or sign a notice for publication in the **Federal Register** to finalize the aluminum criteria EPA proposed for Oregon. NOAA Fisheries transmitted its Biological Opinion to EPA on July 1, 2020. Since Oregon has not yet adopted freshwater aluminum criteria to meet CWA requirements, EPA is promulgating freshwater aluminum criteria for Oregon waters in accordance with CWA Sections 303(c)(3) and (c)(4).

*C. General Recommended Approach for Deriving Aquatic Life Criteria*

Under the Agency's CWA Section 304(a) authority, EPA develops national recommended criteria and methodologies to protect aquatic life and human health for specific pollutants and pollutant parameters. EPA invites public comment on draft recommended criteria and methodologies and seeks scientific expert review before EPA finalizes them as formal national water quality criteria recommendations for states to consider when developing and adopting applicable water quality criteria. EPA's *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses* (referred to as the ''Aquatic Life Guidelines'') [2] describe the systematic way in which EPA establishes concentrations for a pollutant in water that will support the aquatic life designated use.

Numeric criteria derived using EPA's Aquatic Life Guidelines are expressed as acute and chronic values representing short-term and long-term exposures, respectively. The combination of a criterion maximum concentration (CMC), typically expressed as a one-hour average value, and a criterion continuous concentration (CCC), typically specified as a four-day average value, protects aquatic life from acute and chronic toxicity, respectively. Neither value is to be exceeded more than once in three years. An exceedance occurs when the average concentration over the duration of the averaging period is above the CMC or the CCC. EPA based its maximum exceedance frequency recommendation of once every three years on the ability of aquatic ecosystems to recover from the exceedances.

The Aquatic Life Guidelines recommend reliance on toxicity test data from a minimum of eight taxa of aquatic organisms in order to derive

[2] USEPA. 1985. *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses.* U.S. Environmental Protection Agency, Office of Research and Development, Duluth, MN, Narragansett, RI, Corvallis, OR. PB85–227049. *https://www.epa.gov/sites/production/files/2016-02/documents/guidelines-water-quality-criteria.pdf.*

criteria. These taxa are intended to be representative of a wide spectrum of aquatic life, such that the representative taxa serve as surrogates for untested species. Therefore, the representative test organism species do not need to be present in the water(s) where the criteria will apply. A state is not precluded from relying on toxicity data using resident species to develop site-specific criteria to apply at a localized site. In developing site-specific criteria, EPA recommends that the state maintain similar broad taxonomic representation in calculating the site-specific criteria to ensure protection of the most sensitive species at the site. If a state chooses to carry out the ''deletion of data'' portion of the species re-calculation process, the state should consider how to demonstrate that the species included in the derivation of EPA's national recommended criteria are not present and would not serve as surrogates for other species that occur at the site.[3]

## III. Freshwater Aluminum Aquatic Life Criteria

### *A. EPA's National CWA Section 304(a) Recommended Freshwater Aluminum Criteria*

EPA's 2018 national CWA Section 304(a) recommended freshwater aquatic life criteria for aluminum (Final Aquatic Life Ambient Water Quality Criteria for Aluminum 2018, EPA 822–R–18–001, as cited in the **Federal Register** at 83 FR 65663, December 21, 2018), referred to in this action as the ''2018 national recommended criteria,'' were developed following the Aquatic Life Guidelines. These recommended criteria update and replace EPA's 1988 national CWA Section 304(a) recommended freshwater aquatic life criteria for aluminum. The 2018 national recommended criteria apply to fresh waters and include a calculator that takes into account three water chemistry characteristics that affect aluminum toxicity. The 2018 national recommended criteria reflect the latest scientific knowledge and understanding of the interaction between water chemistry and aluminum toxicity, and represent a scientifically defensible method upon which EPA is basing this CWA action to establish WQS for fresh waters in Oregon (83 FR 65663, December 21, 2018).

The 2018 national recommended criteria are based upon Multiple Linear Regression (MLR) models for fish and invertebrate species that use site-specific pH, dissolved organic carbon (DOC), and total hardness inputs to quantify the effects of these water chemistry parameters on the toxicity of aluminum to aquatic organisms. The MLR models normalize the available toxicity data to accurately reflect the effects of the site-specific water chemistry (pH, DOC, total hardness) on the toxicity of aluminum to tested species. The normalized toxicity test data are then used in a criteria calculator to generate criteria for specific ambient water chemistry conditions. The numeric outputs of the 2018 national recommended criteria calculator for a given set of conditions vary depending on the site-specific pH, DOC, and total hardness entered into the calculator. The calculator outputs (CMC and CCC) for a given set of input conditions are numeric values that would be protective for that set of input conditions (*i.e.,* water-chemistry-condition-specific CMC and CCC outputs).

Users of the 2018 national recommended criteria can generate criteria magnitude values in two ways: (1) Use the lookup tables provided in the criteria document to find the numeric aluminum CMC and CCC most closely corresponding to the local conditions for pH, DOC, and total hardness; or (2) use the provided Aluminum Criteria Calculator V2.0 Excel spreadsheet to enter the pH, DOC, and total hardness conditions at a specific site to calculate the numeric aluminum CMC and CCC corresponding to the local input conditions.

In its 2018 national recommended criteria, EPA expressed the aluminum criteria as ''total recoverable'' metal concentrations. The primary reason for the expression of the criteria as total recoverable aluminum concentrations is because the laboratory toxicity tests used in the effects assessment in the development of the aluminum criteria reported the aluminum concentrations as total recoverable aluminum. The use of total aluminum concentrations is justified for laboratory toxicity test data where the total aluminum concentration is in either a dissolved monomeric form or precipitated forms (*e.g.,* aluminum hydroxides) of aluminum. The laboratory dilution waters in tests used for EPA's criteria development did not contain suspended solids, clays, or particulate matter where aluminum could be bound. However, total recoverable aluminum concentrations measured in natural waters may overestimate the potential risks of toxicity to aquatic organisms if suspended solids, clays, or particulate matter to which aluminum may be bound are present, because total recoverable methods measure bioavailable and non-bioavailable forms of aluminum.

As discussed in Section 2.6.2 of EPA's 2018 national recommended criteria document, the different forms of aluminum vary in toxicity. The criteria document discusses differences between aluminum toxicity in a controlled laboratory setting and the toxicity of aluminum in natural waters that contain suspended particles, clays, and aluminosilicate minerals not present in lab waters. Dissolved and particulate (*e.g.,* aluminum hydroxides) aluminum, as well as small sized colloids containing aluminum, exhibit toxic effects on aquatic life depending on the pH, DOC, and total hardness of the waters. Total recoverable aluminum methods determine the total concentration of monomeric (both organic and inorganic) forms of aluminum, polymeric and colloidal forms, as well as particulate forms and aluminum sorbed to clays present in a sample. Total recoverable methods use a strong acid (pH <2) digestion step to prepare the sample for measurement. In contrast, methods to determine dissolved concentrations of aluminum involve filtering test samples prior to digestion, which excludes particulate forms of aluminum from the test sample. Methods to determine dissolved concentrations of aluminum, therefore, may underestimate the toxicity of the aluminum in a sample if the particulate forms including aluminum hydroxide precipitates that contribute to toxicity are not measured. In conclusion, dissolved aluminum measurements are not appropriate for comparison to the aluminum criteria that EPA is promulgating for Oregon. EPA acknowledges, as several commenters noted during the comment periods for both EPA's 2017 draft national CWA Section 304(a) recommended criteria for aluminum and EPA's proposed criteria for Oregon, that not all forms of aluminum that may be present in ambient waters are biologically available or ''bioavailable'' to aquatic species. Bioavailable aluminum (or the bioavailable fraction of aluminum) is defined as the amount of aluminum that is available to cause a biological response in an aquatic organism. The best measures of bioavailability involve interactions of aluminum with a membrane (*e.g.,* aluminum binding to proteins of gill membranes), diffusion

[3] USEPA. 2013. *Revised Deletion Process for the Site-Specific Recalculation Procedure for Aquatic Life Criteria.* U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–823–R–13–001. *https://www.epa.gov/sites/production/files/2015-08/documents/revised_deletion_process_for_the_site-specific_recalculation_procedure_for_aquatic_life_criteria.pdf.*

through the cell membrane, and flocculation of precipitated aluminum on the gill. Bioavailable aluminum is the toxicologically relevant fraction of aluminum which results from a combination of dissolved and precipitated aluminum, in contrast to mineralized (non-toxic) forms of aluminum.[4] The non-bioavailable fraction of aluminum includes large suspended particles, clays, and aluminosilicate minerals.

EPA's 2018 national recommended criteria document (Section 2.6.2 from pp. 22–25) explains the science behind this understanding of aluminum chemistry and toxicity in more detail. There is also relevant discussion of aluminum chemistry (Section 2.2 from pp. 7–10) and mode of action and toxicity (Section 2.3 from pp. 10–16) that help explain the factors affecting bioavailability and toxicity.

*B. Final Acute and Chronic Aluminum Criteria for Oregon's Fresh Waters*

EPA is promulgating aluminum criteria for Oregon that incorporate by reference the calculation of CMC and CCC freshwater aluminum criteria values for a site using the 2018 national recommended criteria.[5] Doing so means that the CMC and CCC freshwater aluminum criteria values for a site shall be calculated using the 2018 Aluminum Criteria Calculator V.2.0 (*Aluminum Criteria Calculator V.2.0.xlsx*) or a calculator in R or other software package using the same 1985 Guidelines calculation procedure and underlying model equations as in the Aluminum Criteria Calculator V.2.0 Excel spreadsheet, as established in the 2018 national recommended criteria. Consistent with the 2018 national recommended criteria, the final water quality criteria for aluminum in Oregon fresh waters are expressed as the CMC as a one-hour average total recoverable aluminum concentration (in µg/L) and the CCC as a four-day average total recoverable aluminum concentration (in µg/L). The CMC and CCC are not to be exceeded more than once every three years.

EPA is promulgating multiple footnotes to the criteria statement to provide clarification on the criteria's intended application, and highlights two in this paragraph. The first footnote specifies that to apply the aluminum criteria for CWA purposes, criteria values based on ambient water chemistry conditions must protect the water body over the full range of water chemistry conditions, including during conditions when aluminum is most toxic. The second footnote states that (1) these criteria are based on aluminum toxicity studies where aluminum was analyzed using total recoverable analytical methods; (2) Oregon may utilize total recoverable analytical methods to implement the criteria; (3) for characterizing ambient waters, Oregon may also utilize, as scientifically appropriate and as allowable by State and Federal regulations, analytical methods that measure the bioavailable fraction of aluminum, as described above, (*e.g.,* utilizing a less aggressive initial acid digestion, such as to a pH of approximately 4 or lower, that includes the measurement of amorphous aluminum hydroxide yet minimizes the measurement of mineralized forms of aluminum such as aluminum silicates associated with suspended sediment particles or clays); and (4) Oregon shall use measurements of total recoverable aluminum where required by Federal regulations.

Commenters were generally supportive of EPA's proposal to base its promulgation for Oregon on EPA's 2018 national recommended criteria for aluminum. EPA acknowledged in the preamble to the proposal that the Agency may consider future modifications to the criteria if warranted based on, among other things, further public input, tribal consultation, new data, or evaluations of listed species completed during Endangered Species Act (ESA) consultation, or the results of ESA consultation. On February 13, 2020 and July 1, 2020, EPA completed consultation with the U.S. Fish and Wildlife Service (USFWS) and NOAA Fisheries, respectively. After evaluating potential effects of the Agency's action on federally-listed species during ESA Section 7(a)(2) consultation with USFWS and NOAA Fisheries, in addition to consideration of comments received during the public comment period associated with the proposed rulemaking, EPA is promulgating aluminum criteria consistent with the 2018 national recommended criteria.

The 2018 national recommended criteria represent the latest scientific knowledge on aluminum speciation, bioavailability, and toxicity, and provide predictable and repeatable outcomes. Consistent with the Aquatic Life Guidelines, the 2018 national recommended criteria protect aquatic life for acute effects (survival and immobility), as well as chronic effects (survival, growth, and reproduction) at a level of 20% chronic Effects Concentration (EC20) for the 95th percentile of sensitive genera. The docket for the 2018 national recommended criteria document contains detailed information on the science underlying that recommendation (Docket ID: EPA–HQ–OW–2017–0260).

Comments Regarding Total Recoverable Aluminum and Use of an Emerging Analytical Method

As mentioned above, commenters pointed out that, as EPA had acknowledged in its 2018 national recommended criteria document, the current test methods for total recoverable aluminum may, in some waters, overestimate the amount of aluminum that will be toxic to aquatic life in ambient waters in Oregon. Commenters suggested that in order to better approximate the toxic fraction of aluminum, EPA should allow use of an emerging analytical method that measures bioavailable aluminum by using an initial digestion at pH 4. Commenters urged use of such an analytical method to characterize aluminum concentrations in ambient waters, particularly in waters with high levels of total suspended solids suggesting the presence of colloidal, particulate, and clay-bound aluminum. Some commenters requested that the final criteria for Oregon be expressed as ''bioavailable or total recoverable'' aluminum to confirm availability for use of an alternative analytical method.

EPA acknowledges in the final rule that the promulgated criteria are based on aluminum toxicity laboratory studies where aluminum was analyzed using total recoverable analytical methods. However, EPA also acknowledges that under natural conditions not all of these forms of aluminum would be biologically available to aquatic species. All of the approved total recoverable methods require that samples be preserved in the field by acidifying to pH <2 and digested in the laboratory with strong acid solution that dissolves the monomeric and polymeric forms of aluminum, in addition to colloidal, particulate, and clay-bound aluminum. Over the last three decades, the

[4] Per Rodriguez et al. 2019: ''To properly characterize the Al concentrations in the toxicity studies, a method was needed that could discriminate bioavailable Al from mineral forms of Al. An extraction method at pH 4 for bioavailable Al was developed and evaluated using *C. dubia* chronic toxicity studies in the presence of TSS. It is concluded that the proposed method is better able to discriminate chronic toxicity effects attributable to bioavailable Al from mineralized nontoxic forms of Al compared with existing methods using total or total recoverable Al (*i.e.,* extraction at pH ≤ 1.5).''

[5] USEPA. 2018. *Final Aquatic Life Ambient Water Quality Criteria for Aluminum.* U.S. Environmental Protection Agency, Office of Water, Washington, DC. EPA–822–R–18–001. *https://www.epa.gov/sites/production/files/2018-12/documents/aluminum-final-national-recommended-awqc.pdf.*

scientific consensus has been that the total recoverable method for aluminum potentially overestimates the biologically available fraction and that a method that better addresses concerns with including aluminum bound to particulate matter would be useful (*e.g.,* He and Ziemkiewics 2016; Ryan *et al.* 2019).[6]

In an attempt to address concerns with measuring total recoverable aluminum concentrations, researchers recently investigated new analytical methods to measure biologically available forms of aluminum (Rodriguez *et al.* 2019).[7] This approach does not digest the sample at pH of −0.05 to +0.7 but rather to pH 4 to better measure only the bioavailable fraction of aluminum. Rodriguez *et al.* reported that sodium acetate buffer is added to the sample to reach the desired pH, followed by sample agitation for a specified period of time, and finally 0.45-µm sample filtration. The sample is then acidified with nitric acid before inductively coupled plasma-optical emission spectrometry analysis. These authors provided data that led them to conclude that their proposed method is better able to discriminate chronic toxicity effects attributable to bioavailable aluminum from mineralized nontoxic forms of aluminum compared with existing methods using total or total recoverable aluminum.

EPA expects that an analytical method that uses a less aggressive initial acid digestion that liberates bioavailable forms of aluminum (including amorphous aluminum hydroxide), yet minimizes dissolution of mineralized forms of aluminum such as aluminosilicates associated with suspended sediment particles and clays (referred to as a bioavailable analytical method), will better estimate the bioavailable fraction of aluminum in ambient waters. EPA is not prescribing use of any specific method and looks to further research and method standardization efforts to identify best practices.

For the reasons articulated above, EPA is including the option for Oregon to use a bioavailable analytical method for characterizing aluminum concentrations in ambient waters, except where measurements of total recoverable aluminum are required by Federal regulations (*e.g.,* NPDES permit limits for aluminum and compliance reports, by regulation at 40 CFR 122.45, 40 CFR 122.44, and 40 CFR 122.48, must be expressed as ''total recoverable aluminum'' and measured using analytical methods approved at 40 CFR part 136). Doing so, particularly when testing ambient samples expected to contain significant amounts of colloidal, particulate, and clay-bound aluminum, will better approximate the fraction of aluminum that is ''available'' to aquatic life in Oregon waters. The footnote in the criteria statement that speaks to Oregon's use of a bioavailable analytical method specifies that such a method may utilize ''a less aggressive initial acid digestion, such as to a pH of approximately 4 or lower, that includes the measurement of amorphous aluminum hydroxide yet minimizes the measurement of mineralized forms of aluminum such as aluminum silicates associated with suspended sediment particles or clays.'' Oregon may use such methods ''as scientifically appropriate and as allowable by State and [F]ederal regulations.'' For more discussion on analytical methods considerations, refer to Section *C. Implementation of Final Freshwater Acute and Chronic Aluminum Criteria in Oregon* of this preamble.

Comments Regarding Language Included in the Aluminum Criteria Table

In addition to addressing comments pertaining to the use of analytical methods described above, EPA also addressed separate and unrelated comments regarding language included in the proposed criteria table. In the proposed rulemaking, the proposed criteria table included the following text: ''Calculator outputs shall be used to calculate criteria values for a site that protect aquatic life throughout the site under the full range of ambient conditions, including when aluminum is most toxic given the spatial and temporal variability of the water chemistry at the site.'' Commenters requested that the text be moved out of the criteria table because they suggested that it referred to implementation of the criteria and that the criteria regulation should only contain a reference to the 2018 national recommended criteria for aluminum. In response, the final rule removes the proposed text from the criteria table and instead includes a modification of EPA's statement as a footnote to the criteria table. The Agency is using Oregon's adopted water quality criteria for the copper Biotic Ligand Model (BLM) as its guide, specifically Endnote N, Subpart 3(a), which states that Oregon ''will apply the BLM criteria for Clean Water Act purposes to protect the water body during the most bioavailable or toxic conditions.''[8]

Commenters also requested that EPA edit the above-referenced statement to avoid the implication that a static set of criteria values must be calculated for each site for CWA implementation purposes. EPA affirms that the State need not calculate static criteria values for each site and has revised the statement to provide that for CWA purposes, criteria values based on ambient water chemistry conditions must protect the water body over the full range of water chemistry conditions, including during conditions when aluminum is most toxic. The intention of the statement is to reflect that site-specific pH, DOC, and total hardness conditions vary both spatially and temporally and that the State must apply the criteria in a manner that ensures protection over the full range of variability.

The State may ensure protection over the full range of water chemistry conditions in different ways for different CWA implementation purposes. For example, for NPDES permitting, the permit protects the water body during critical conditions and therefore under other foreseeable conditions. The State could use multiple outputs of the calculator to generate a static set of criteria values that would be protective for the range of ambient conditions at a site, and use these to calculate a water quality-based effluent limit (WQBEL) for an NPDES permit for a water body. For assessment, the State could concurrently measure the aluminum concentration and the input parameters at the site. The calculator would generate instantaneous criteria values against which the concurrently collected aluminum monitoring data would be compared.

Comments Regarding Default Criteria Values

Regarding the topic of default criteria values, Oregon will need to use ambient water chemistry data (*i.e.,* paired pH, DOC, total hardness) as inputs to the calculator in order to determine protective aluminum criteria values when implementing the criteria, unless the State provides protective default

[6] He YT, Ziemkiewicz PF. 2016. Bias in determining aluminum concentrations: Comparison of digestion methods and implications on Al management. Chemosphere 159:570–576; Ryan AC, Santore RC, Tobiason S, WoldeGabriel G, and Groffman AR. 2019. Total recoverable aluminum: Not totally relevant for water quality standards. *Integrated Environmental Assessment and Management.* 15(6): 974–987.

[7] Rodriguez PH, Arbildua JJ, Villavicencio G, Urrestarazu P, Opazo M, Cardwell AS, Stubblefield W, Nordheim E, Adams W. 2019. Determination of bioavailable aluminum in natural waters in the presence of suspended solids. *Environmental Toxicology and Chemistry.* 38(8):1668–1681.

[8] See Endnote ''N,'' *https://www.oregon.gov/deq/RulemakingDocs/tables303140.pdf.*

values. To ensure that all subject waters will be protected by the aluminum criteria, EPA recommends the State have either protective default input values for DOC, default criteria magnitude values, or procedures for how to calculate criteria values for waters for which there are insufficient data to adequately characterize site-specific conditions in the water body. EPA recommends that pH values be directly measured rather than estimated, given the variability of pH in the environment and the sensitivity of criteria calculations to differences in pH. EPA solicited comment in the preamble to the proposed rulemaking on whether it should promulgate default criteria values for aluminum to ensure protection of the aquatic life designated use when available data are insufficient to characterize a site. EPA agrees with comments that while default values may be needed in some situations, it is preferable to collect the needed ambient data and use the calculator to calculate criteria values. Commenters supported the use of default ecoregional criteria values for situations when data for more than one input parameter are unavailable, but requested that the final rule not include promulgation of default criteria values. In consideration of these comments, EPA has elected not to finalize default criteria procedures or values in this rule.

Although Oregon is not required to identify default input parameters or default criteria values for aluminum, the State is required to protect the designated uses of the waterbodies within its jurisdiction. As described in more detail below, EPA has elected to provide the procedures for developing default criteria values and default DOC inputs in the docket to this rulemaking. These procedures are available to Oregon to use at the State's discretion, in the event the State does not yet have sufficient site-specific ambient data upon which to rely for a particular location. EPA expects that the State will provide publicly available default procedures or values so that the public and implementing entities will be aware of how all of the State's fresh waters subject to the rule will be protected by the criteria when available data are insufficient to characterize a site.

Per commenters' suggestions, this final preamble briefly describes a suggested procedure for calculating default ecoregional criteria, but does not include a table of pre-calculated values. Comments supported the option of ''ecoregional criteria default values'' based on the 10th percentile of the distribution of calculator outputs calculated within an ecoregion, which is similar to the approach that EPA suggested in the preamble to the proposal and described in a technical analysis included in the docket (''Analysis of the Protectiveness of Default Ecoregional Al Criteria Values'' Docket ID: EPA–HQ–OW–2016–0694–0114). In this procedure, EPA calculated ecoregional default aluminum criteria values based on publicly available data from each of Oregon's Level III Ecoregions.[9] To calculate ecoregional default criteria values, (1) EPA identified paired measurements of the three calculator input parameters where available, and (2) where paired measurements of the three calculator input parameters were unavailable, EPA identified paired ambient data measurements for available input parameters along with estimated DOC and/or total hardness estimated from measured Total Organic Carbon (TOC) and specific conductivity, respectively as needed. EPA then calculated the 10th percentile CMC and CCC (and other percentiles) for each ecoregion from the distributions of calculator outputs. Finally, depending on the ecoregion and data censoring method, EPA selected the 5th or 10th percentile as a statistic that represents a lower bound of spatially and temporally variable conditions that will be protective in the majority (>90%) of cases. This procedure is available for the State to use to generate default criteria values for areas for which the Aluminum Criteria Calculator v.2.0 will be used and there are insufficient site-specific ambient data. The State may also use another scientifically defensible procedure to generate default criteria values.

In addition to soliciting comment on including default ecoregional criteria, EPA also solicited comment on whether the final rule should include default DOC input values. Among the input parameters, ambient DOC data are the least likely to be available out of the three input parameters. DOC influences aluminum toxicity unidirectionally. Higher levels of DOC provide more mitigation of aluminum toxicity. For water bodies for which sufficient pH and total hardness data are available, but sufficient DOC data are not available, Oregon may develop default DOC input values to use with ambient pH and total hardness data, as an alternative to using default criteria values. Comments supported the use of default DOC inputs when DOC input parameter data are unavailable. Commenters requested the final rule afford the State the discretion to develop its own DOC defaults, including a comment requesting that the State be able to use its own DOC default inputs from its copper BLM criteria rule.[10] EPA has elected not to finalize default DOC inputs for this aluminum rule so that the State may use its discretion to develop or apply its own.

Per commenters' suggestions, EPA briefly describes a possible procedure for calculating default DOC input values. One such approach would be to mirror the approach EPA described in the preamble to the proposed rulemaking, which also is described in technical support materials associated with EPA's proposed rulemaking and included in the docket to this rulemaking (''Analysis of the Protectiveness of Default DOC Options'' Docket ID: EPA–HQ–OW–2016–0694–0116). In that analysis, EPA analyzed the State's DOC default procedures for its copper water quality standard and found that in most of the ecoregions, the default values those procedures would generate would be protective as default inputs for aluminum as well, with some exceptions and considerations. EPA derived its suggested default DOC input values as the 15th or 20th percentile of the distribution of data from a compilation of high quality data available for Oregon's georegions (aggregated ecoregions with similar water quality characteristics). Depending on the ecoregion and the data censoring method, EPA selected the 5th, 15th, or 20th percentiles as low-end percentiles of georegional DOC concentrations that represent a lower bound of spatially and temporally variable conditions that will be protective in the majority of cases. EPA encourages the State to continue refining its DOC default input procedures to ensure the calculated aluminum criteria values will be protective for all of Oregon's fresh waters subject to this rule.

### *C. Implementation of Final Freshwater Acute and Chronic Aluminum Criteria in Oregon*

EPA understands that states have certain flexibilities under 40 CFR part 131 regarding how each implements water quality standards, such as today's

[9] USEPA. 2013. U.S. Environmental Protection Agency, 2013, Level III ecoregions of the continental United States: Corvallis, Oregon, U.S. EPA—National Health and Environmental Effects Research Laboratory, map scale 1:7,500,000, *http://www.epa.gov/wed/pages/ecoregions/level_iii_iv.h.* Omernik, J.M. 1987. Ecoregions of the conterminous United States. *Annals of the Association of American Geographers.* 77:118–125.

[10] Oregon Administrative Rules, Copper Standard Implementatoin (Chapter 340, Division 041, Section 0033), *https://www.oregon.gov/deq/wq/Pages/WQ-Standards-Copper.aspx.*

freshwater aluminum criteria for Oregon. To support the State, the proposed rulemaking identified a range of acceptable approaches for the State and the commenting public to consider. The State may elect to utilize one or more of the approaches or to implement the final aluminum criteria in other ways that are consistent with 40 CFR part 131.

For CWA implementation purposes, the State will need to identify one or more outputs from the calculator or a value derived from a scientifically defensible percentile of the distribution of the output values as the magnitude(s) of the criteria, to be applied together with duration and frequency, to protect the water body under the range of water chemistry conditions at a site. In practice, EPA expects the State to collect sufficient data to characterize the most toxic conditions at a site. The State could collect samples for the input parameters concurrently or as close to the same time as possible while representing the same environmental condition, and could use default values if appropriate where data are unavailable or insufficient to capture the variability in conditions. The ways by which the State may evaluate sufficiency are described in more detail below.

The proposal preamble described three example approaches that the State could use to calculate criteria values when multiple calculator outputs, representing different ambient conditions over time, are available (*i.e.,* how to reconcile multiple calculator outputs). EPA agrees with commenters' suggestions that further development and implementation of these approaches should be left to the State's discretion, and that the term used to identify one or more protective values, ''reconcile,'' was not appropriate to describe how the State should manage multiple calculator outputs. The appropriate approach for each circumstance will depend primarily on data availability and on the programmatic purposes for which criteria values are being calculated. For purposes which require forecasting a protective loading allocation under varying ambient conditions, for example, the State could calculate a single set of numeric criteria values (CMC and CCC) by choosing the lowest output or a low percentile of the outputs of multiple calculator runs, or use conservative default values.

Oregon should ensure that sufficiently representative data are collected for the calculator's input parameters (pH, DOC, and total hardness) to have confidence that the most toxic conditions are adequately characterized. To accomplish this, Oregon may evaluate the input parameter data and resultant criteria values that are calculated over time for different flows and seasons through the use of appropriate statistical methods, such as Monte Carlo [11] simulation. One consideration when defining a site to which to apply criteria for aluminum is whether the concentration of metals are generally consistent throughout the area. As the size of a site increases, the spatial and temporal variability is likely to increase; thus, more water samples may be required to adequately characterize the entire site. Implementation materials that outline the State's approaches will help provide transparency for the public and predictable, repeatable outcomes. Additional transparency and public accountability will be achieved if Oregon makes publicly available each site's ambient water chemistry data, including the inputs used in the aluminum criteria value calculations, resultant criteria values, and the geographic extent of the site.

Similarly, NPDES permit effluent limits that are derived from the aluminum criteria calculator should be sufficiently explained in Fact Sheets or Statements of Basis. This includes providing an explanation of how the aluminum criteria values were calculated; the input data or summary of input data and source of data; and how criteria values were used to determine whether the discharge would cause or have the reasonable potential to cause or contribute to an excursion above the aluminum criteria, and if so, how the values were used to derive WQBELs for aluminum. The State's assessment methodology and any TMDLs developed for waters impaired for aluminum criteria developed using the calculator should also be adequately explained for transparency and public accountability in TMDL documents and Integrated Reports, as appropriate.

Substantial changes in a water body's ambient input parameter concentrations will likely affect aluminum toxicity at that site. In addition, as a robust, site-specific dataset is developed with regular monitoring, criteria values previously calculated by the State can be updated to more accurately reflect site conditions. The State may wish to revisit calculated aluminum criteria values periodically (for example, with each CWA Section 303(d) listing cycle or WQS triennial review) or when changes in water chemistry are evident or suspected at a site and as additional monitoring data become available. This will ensure that the criteria values used for implementing CWA programs accurately reflect the toxicity of aluminum and remain protective of the aquatic life designated uses including when aluminum is most toxic.

Analytical Methods Considerations

As discussed earlier, the forms of aluminum introduced into the laboratory toxicity tests upon which EPA relied for criteria development do not include suspended solids or clays where aluminum may be bound. Aluminum bound in suspended solids or clays would be extracted when using total recoverable methods that have a strong acid (pH <2) digestion step, but these forms of aluminum would not be biologically available to aquatic species in ambient waters. Empirical laboratory chronic (7-day) testing with *Ceriodaphnia dubia* investigating survival and reproduction endpoints indicates that total recoverable (pH −0.05 to +0.7 digestion) and bioavailable measurements of aluminum in lab waters are essentially equal up to approximately 1 mg/L of aluminum.[12] Studies are currently being conducted at Oregon State University with test solutions with greater than 1 mg/L of aluminum to better understand the relationship between the total recoverable and bioavailable analytical methods at concentrations above 1 mg/L. Initial studies indicate there is little variability between total recoverable and bioavailable aluminum above 1 mg/L in lab waters because the laboratory waters do not include clays or suspended solids.

It is not necessary to apply a conversion or translation factor to compare field measurements using a bioavailable method against the promulgated aluminum total recoverable criteria. This is because both bioavailable and total recoverable analytical methods quantify the toxic fraction of aluminum equivalently in laboratory test waters given that standard toxicity test waters do not include suspended solids or clays per test protocols. For NPDES compliance monitoring and reporting, total recoverable measurements for metals are required. By comparison, for ambient water measurements, analytical methods that measure bioavailable

[11] Given sufficient data, Monte Carlo simulation or equivalent analysis can be used to determine the probability of identifying the most toxic time period for a series of monitoring scenarios. From such an analysis, the State can select an appropriate monitoring regime.

[12] Rodriguez PH, Arbildua JJ, Villavicencio G, Urrestarazu P, Opazo M, Cardwell AS, Stubblefield W, Nordheim E, Adams W. 2019. Determination of bioavailable aluminum in natural waters in the presence of suspended solids. *Environmental Toxicology and Chemistry.* 38(8):1668–1681.

aluminum should provide more accurate quantification of the toxic fraction of aluminum. EPA has included a footnote to the final criteria statement specifically noting that for characterizing ambient waters, Oregon may utilize, as scientifically appropriate and as allowable by State and Federal regulations, analytical methods that measure the bioavailable fraction of aluminum. The State's use of such a method would need to comply with other requirements in the State's own program, for example, any applicable Quality Assurance/Quality Control requirements. For assessment and listing purposes, ambient field measurements analyzed using a bioavailable analytical method may be compared directly to the criteria because both represent the toxic fraction of aluminum.

EPA recognizes that in some circumstances, assessing waters using the total recoverable analytical method could result in the listing of some waters (*i.e.,* those with high amounts of total suspended solids) as impaired even though the elevated aluminum measurements could be largely attributed to non-bioavailable forms of aluminum. EPA's existing regulations do not require use of analytical test methods promulgated at 40 CFR part 136 in the implementation of CWA Section 303 programs, including assessment and listing of waters, nor in the determination of the need for a WQBEL. However, EPA's regulations require that states assemble and evaluate all existing and readily available water quality-related data and information for use in developing their CWA Section 303(d) lists. 40 CFR 130.7(b)(5). The requirement to assemble and evaluate all data and information for assessment and listing purposes includes situations where only total recoverable aluminum data and information are available. However, in those circumstances, the State is not required to rely on that data for listing purposes as long as it provides a technical, science-based rationale for not using the data and information. 40 CFR 130.7(b)(6)(iii). This technical, science-based rationale documenting the State's consideration of existing and readily available data and information is referenced in the additional footnote language to the criteria statement, which speaks to Oregon's ability to use analytical methods that measure the bioavailable fraction of aluminum for characterizing ambient waters ''as scientifically appropriate.'' For example, the State may be able to demonstrate that total recoverable aluminum samples are not representative of water quality conditions because non-toxic, non-bioavailable forms of aluminum are leading to an exceedance above the criterion. When data and information are available for both total recoverable and bioavailable aluminum, the State must evaluate all of it, but need not rely on all of it for assessment and listing purposes. Applicable regulations do not prohibit the State from assigning more weight to data and information about bioavailable aluminum than total recoverable aluminum for assessment and listing purposes.

For developing TMDLs and load allocations, field measurements analyzed using a bioavailable method also may be used as the basis for identifying allocations for TMDLs, both wasteload allocations (WLA) for point sources and load allocations (LA) for nonpoint sources. For implementing a WLA, the associated WQBEL must be assessed for NPDES compliance purposes using total recoverable methods just as would be the case for other NPDES applications consistent with permitting regulations (NPDES permit limits for aluminum and compliance reports, by regulation at 40 CFR 122.44, 40 CFR 122.45, and 40 CFR 122.48, must be expressed as ''total recoverable aluminum'' and measured using analytical methods approved at 40 CFR part 136). For implementing a LA, a bioavailable analytical method could be used to measure nonpoint source contributions because significant solids with colloid and clay-bound aluminum could be present (He and Ziemkiewics 2016; Ryan *et al.* 2019),[13] and should not contribute to the measured aluminum for comparison to a LA.

The contexts where use of an EPA approved method is required are: (1) Applications for NPDES permits, specifically, measurements of effluents, (2) reports required from dischargers, and (3) certifications issued by states under CWA Section 401. 40 CFR 136.1(a). NPDES permit limits for metals must be expressed as ''total recoverable'' metals with the exception of circumstances that would not apply for the aluminum criteria in this rule. 40 CFR 122.45(c).

### *D. Incorporation by Reference*

The regulatory text incorporates an EPA document by reference, specifically, EPA's Final Aquatic Life Ambient Water Quality Criteria for Aluminum—2018, December 2018 (EPA–822–R–18–001). The 2018 national recommended criteria document is an update to the 1988 recommended aluminum aquatic life ambient water quality criteria, in accordance with the provisions of CWA Section 304(a) directing EPA to revise criteria from time to time to reflect the latest scientific knowledge. The criteria for aluminum that protect aquatic life in fresh water depend on a site's water chemistry parameters. Using those inputs, users can enter a site's pH, DOC, and total hardness into the aluminum criteria calculator or use the lookup tables in the criteria document's appendix. Incorporating this document by reference will allow the State to access all of the underlying information and data EPA used to develop the 2018 national recommended criteria for aluminum. With access to this information, the State will have the flexibility to create its own version of the calculator built upon the underlying peer-reviewed models. EPA has made, and will continue to make, this document publicly available electronically through *www.regulations.gov* at the docket associated with this rulemaking and at *www.epa.gov/wqc/aquatic-life-criteria-aluminum.*

## IV. Critical Low Flows and Mixing Zones

To ensure that the final criteria for aluminum are applied appropriately to protect Oregon's aquatic life uses, EPA recommends Oregon use critical low flow values consistent with longstanding EPA guidance [14] when calculating the available dilution for the purposes of determining the need for and establishing WQBELs in NPDES permits. Dilution is one of the primary mechanisms by which the concentrations of contaminants in effluent discharges are reduced following their introduction into a receiving water. During a low flow event, there is less water available for dilution, resulting in higher instream pollutant concentrations. If criteria are implemented using inappropriate critical low flow values (*i.e.,* flow values that are too high), the resulting ambient

[13] He YT, Ziemkiewicz PF. 2016. Bias in determining aluminum concentrations: Comparison of digestion methods and implications on Al management. Chemosphere 159:570–576; Ryan AC, Santore RC, Tobiason S, WoldeGabriel G, and Groffman AR. 2019. Total recoverable aluminum: not totally relevant for water quality standards. *Integrated Environmental Assessment and Management.* 15(6): 974–987.

[14] USEPA. 1991. *Technical Support Document For Water Quality-based Toxics Control.* U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA/505/2–90–001. *http://www3.epa.gov/npdes/pubs/owm0264.pdf.*

concentrations could exceed criteria values when low flows occur.[15]

EPA notes that in ambient settings, critical low flow conditions used for NPDES permit limit derivation purposes may not always correspond with conditions of highest aluminum bioavailability and toxicity. EPA's *NPDES Permit Writers' Manual* describes the importance of characterizing effluent and receiving water critical conditions, because if a discharge is controlled so that it does not cause water quality criteria to be exceeded in the receiving water under critical conditions, then water quality criteria should be attained under all other conditions.[16]

EPA's March 1991 *Technical Support Document for Water Quality-based Toxics Control* recommends two methods for calculating acceptable critical low flow values: The traditional hydrologically-based method developed by the USGS and a biologically based method developed by EPA.[17] The hydrologically-based critical low flow value is determined statistically, using probability and extreme values, while the biologically-based critical low flow is determined empirically using the specific duration and frequency associated with the criterion. For the acute and chronic aluminum criteria, EPA recommends the following critical low flow values, except where modeling demonstrates that the most significant critical conditions occur at other than low flow:

Acute Aquatic Life (CMC): 1Q10 or 1B3

Chronic Aquatic Life (CCC): 7Q10 or 4B3

Using the hydrologically-based method, the 1Q10 represents the lowest one-day average flow event expected to occur once every ten years, on average, and the 7Q10 represents the lowest seven-consecutive-day average flow event expected to occur once every ten years, on average. Using the biologically-based method, 1B3 represents the lowest one-day average flow event expected to occur once every three years, on average, and 4B3 represents the lowest four-consecutive-day average flow event expected to occur once every three years, on average.[18]

The final criteria must be attained at the point of discharge unless Oregon authorizes a mixing zone. Where Oregon authorizes a mixing zone, the criteria would apply at the locations allowed by the mixing zone (*i.e.,* the CMC would apply at the defined boundary of the acute mixing zone and the CCC would apply at the defined boundary of the chronic mixing zone).[19] [20]

## V. Endangered Species Act

Section 7(a)(2) of the ESA requires that each Federal agency ensure that any action authorized, funded, or carried out by such Agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. For this rule, EPA transmitted a Biological Evaluation to NOAA Fisheries Service and USFWS on September 20, 2019. NOAA Fisheries responded on October 18, 2019, that EPA's Biological Evaluation was insufficient to initiate formal consultation. EPA submitted a revised Biological Evaluation to NOAA Fisheries on January 2, 2020. On February 13, 2020, EPA received a final Biological Opinion from USFWS that determined that EPA's proposed action is likely to adversely affect, but will not jeopardize the continued existence of bull trout and will not destroy or adversely modify its designated critical habitat. USFWS also concluded that the proposed action may affect, but is not likely to adversely affect, eight other federally-listed species and is not likely to destroy or adversely modify the critical habitat for the other species that were included in the consultation. On July 1, 2020, EPA received a final Biological Opinion from NOAA Fisheries that determined that EPA's proposed action is likely to adversely affect, but will not jeopardize the continued existence of 18 listed species and will not destroy or adversely modify designated critical habitat for the species that were included in the consultation. The receipt of the NOAA Biological Opinion concludes the consultation for this rule under ESA Section 7(a)(2). Documents associated with ESA consultation are available in the docket associated with this rule (Docket ID: EPA–HQ–OW–2016–0694).

## VI. Under what conditions would Federal standards be withdrawn?

Under the CWA, Congress gave states and authorized tribes primary responsibility for developing and adopting WQS for their navigable waters (CWA Sections 303(a) through (c)). Although EPA is finalizing aluminum aquatic life criteria for Oregon's fresh waters subject to this rule on the basis of having disapproved Oregon's 2004 criteria in February 2013, Oregon retains the option to adopt and submit to the Agency acute and chronic aluminum criteria for the State's fresh waters consistent with CWA Section 303(c) and the Agency's implementing regulation at 40 CFR part 131. Indeed, EPA encourages Oregon to do so expeditiously. The Agency would approve the State's criteria if the criteria meet the requirements of CWA Section 303(c) and implementing regulation at 40 CFR part 131. If EPA's federally promulgated criteria are more stringent or prescriptive than the State's criteria, EPA's federally promulgated criteria are and will be the applicable water quality standard for purposes of the CWA until the Agency withdraws those federally promulgated standards (40 CFR 131.21(c)). EPA would expeditiously undertake such a rulemaking to withdraw the Federal criteria if and when Oregon adopts, and the Agency approves, corresponding criteria that meet the requirements of CWA Section 303(c) and implementing regulation at 40 CFR part 131. After such a withdrawal of EPA's federally promulgated criteria, the State's EPA-approved criteria would become the applicable criteria for CWA purposes (40 CFR 131.21(c)).

## VII. Alternative Regulatory Approaches and Implementation Mechanisms

The Federal WQS regulation at 40 CFR part 131 provides several tools that Oregon has available to use at its discretion when implementing or deciding how to implement these aquatic life criteria, once effective. Among other things, EPA's WQS regulation: (1) Specifies how states and authorized tribes establish, modify, or remove designated uses (40 CFR 131.10); (2) specifies the requirements for establishing criteria to protect designated uses, including criteria modified to reflect site-specific conditions (40 CFR 131.11); (3) authorizes and provides regulatory guidelines for states and authorized tribes to adopt WQS variances that provide time to achieve the applicable WQS (40 CFR 131.14); and (4) allows states and authorized tribes to authorize

[15] USEPA. 2014. *Water Quality Standards Handbook-Chapter 5: General Policies.* U.S. Environmental Protection Agency, Office of Water. Washington, DC EPA–820–B–14–004. *http://www.epa.gov/sites/production/files/2014-09/documents/handbook-chapter5.pdf.*

[16] The same principle holds for developing a TMDL target, the total load.

[17] USEPA. 1991. *Technical Support Document For Water Quality-based Toxics Control.* U.S. Environmental Protection Agency, Office of Water, Washington, DC EPA/505/2–90–001. *http://www3.epa.gov/npdes/pubs/owm0264.pdf.*

[18] *See* USEPA, 2014.

[19] *See* USEPA, 1991.

[20] Oregon Administrative Rules, Mixing Zones (Chapter 340, Division 41, Section 0053), *https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=68770.*

the use of compliance schedules in NPDES permits to meet WQBELs derived from the applicable WQS (40 CFR 131.15). Each of these approaches is discussed in more detail in the next sections. Whichever approach a state pursues, however, all NPDES permits would need to comply with EPA's regulations at 40 CFR 122.44(d)(1)(i).

*A. Designating Uses*

EPA's final aluminum criteria apply to fresh waters in Oregon where the protection of fish and aquatic life is a designated use (see Oregon Administrative Rules at Chapter 340 Division 41). The Federal regulation at 40 CFR 131.10(g) provides requirements for establishing, modifying, and removing designated uses when attaining the use is not feasible for one of the six factors in the regulation. If Oregon removes designated uses such that no fish or aquatic life uses apply to any particular water body affected by this rule and adopts the highest attainable use,[21] the State must also adopt criteria to protect the newly designated highest attainable use consistent with 40 CFR 131.11. It is possible that criteria other than the federally promulgated criteria would protect the highest attainable use. If EPA finds removal or modification of the designated use and the adoption of the highest attainable use and criteria to protect that use to be consistent with CWA Section 303(c) and the implementing regulation at 40 CFR part 131, the Agency would approve the revised WQS. EPA would then undertake a rulemaking to withdraw the corresponding Federal WQS for the relevant water(s).

*B. WQS Variances*

Oregon's WQS provide authority to apply WQS variances when implementing federally promulgated criteria for aluminum, as long as such WQS variances are adopted consistent with 40 CFR 131.14 and submitted to EPA for review under CWA Section 303(c). The Federal regulation at 40 CFR 131.3(o) defines a WQS variance as a time-limited designated use and criterion, for a specific pollutant or water quality parameter, that reflects the highest attainable condition during the term of the WQS variance. A WQS variance may be appropriate if attaining the use and criterion would not be feasible during the term of the WQS variance because of one of the seven factors specified in 40 CFR 131.14(b)(2)(i)(A), including if NPDES permit limits more stringent than technology-based controls would result in substantial and widespread economic and social impact. WQS variances adopted in accordance with 40 CFR 131.14 (including a public hearing consistent with 40 CFR 25.5) provide a flexible but defined pathway for states and authorized tribes to issue NPDES permits with limits that are based on the highest attainable condition during the term of the WQS variance thereby allowing dischargers to make water quality improvements when the WQS is not immediately attainable but may be in the future. When adopting a WQS variance, states and authorized tribes specify the interim requirements of the WQS variance by identifying a quantitative expression that reflects the highest attainable condition (HAC) during the term of the WQS variance, establishing the term of the WQS variance, and describing the pollutant control activities expected to occur over the specified term of the WQS variance. WQS variances provide a legal avenue by which NPDES permit limits can be written to comply with the WQS variance rather than the underlying WQS for the term of the WQS variance. If dischargers are still unable to meet the WQBELs derived from the applicable WQS once a WQS variance term is complete, the regulation allows the State to adopt a subsequent WQS variance if it is adopted consistent with 40 CFR 131.14. EPA is promulgating criteria that apply to the use designation that Oregon has already established. Oregon's WQS regulations currently include provisions to use WQS variances when implementing criteria, as long as such WQS variances are adopted consistent with 40 CFR 131.14 and approved by EPA. Oregon may use the State's EPA-approved WQS variance procedures when adopting such WQS variances.

*C. NPDES Permit Compliance Schedules*

EPA's regulations at 40 CFR 122.47 and 131.15 address how permitting authorities can use schedules for compliance with a limit in the NPDES permit if the discharger needs additional time to undertake actions like facility upgrades or operation changes to meet a WQBEL based on the applicable WQS. EPA's regulation at 40 CFR 122.47 allows a permitting authority to include a compliance schedule in the NPDES permit, when appropriate and where authorized by the state, in order to provide a discharger with additional time to meet a WQBEL implementing applicable WQS. EPA's regulation at 40 CFR 131.15 requires that a state that intends to allow the use of NPDES permit compliance schedules adopt specific provisions authorizing their use and obtain EPA approval under CWA Section 303(c) to ensure that a decision to allow a permit compliance schedule is transparent and allows for public input (80 FR 51022, August 21, 2015). EPA already has approved Oregon's State law provision authorizing the use of permit compliance schedules (see OAR 340–041–0061), consistent with 40 CFR 131.15. Oregon's compliance schedule authorizing provision is not affected by this rule. Oregon is authorized to grant permit compliance schedules, as appropriate, based on the Federal water quality criteria for aluminum in Oregon, as long as such permit compliance schedules are consistent with EPA's permitting regulation at 40 CFR 122.47.

**VIII. Economic Analysis**

To best inform the public of the potential impacts of this rule, EPA evaluated the potential costs associated with State implementation of the Agency's aluminum criteria based on available information. This analysis is documented in *Economic Analysis for the Final Rule: Federal Aluminum Aquatic Life Criteria Applicable to Oregon,* which can be found in the record for this rule. For this analysis, EPA assumed that Oregon fully implements its existing narrative water quality criteria for aluminum (*i.e.,* ''baseline criteria'') and estimated the incremental impacts for compliance with the aluminum criteria in this rule. For point source costs, EPA assumed any NPDES-permitted facility that discharges aluminum would have reasonable potential and would be subject to effluent limits and would incur compliance costs if it chose to continue discharging. EPA also evaluated nonpoint sources that contribute aluminum loadings to waters that would be considered impaired for aluminum under the final criteria, which may incur incremental costs for additional best management practices (BMPs). The total cost annualized of this final rule would range from $1.2 million to $8.0 million at a 3% discount rate, and $1.2 million to $8.1 million at a 7% discount rate, for the first 10 years. See *Economic Analysis for the Final Rule:*

[21] If a state or authorized tribe adopts a new or revised WQS based on a required use attainability analysis, then it must also adopt the highest attainable use (40 CFR 131.10(g)). The highest attainable use is the modified aquatic life, wildlife, or recreation use that is both closest to the uses specified in section 101(a)(2) of the CWA and attainable, based on the evaluation of the factor(s) in 40 CFR 131.10(g) that preclude(s) attainment of the use and any other information or analyses that were used to evaluate attainability. There is no required highest attainable use where the state demonstrates the relevant use specified in section 101(a)(2) of the Act and sub-categories of such a use are not attainable (see 40 CFR 131.3(m)).

*Federal Aluminum Aquatic Life Criteria Applicable to Oregon* for a detailed summary of the information and assumptions EPA relied on to estimate potential costs for the final rule.

## IX. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

### *A. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)*

This action is a significant regulatory action and was submitted to the Office of Management and Budget (OMB) for review. Any changes made during OMB's review have been documented in the docket. EPA prepared an analysis of the potential costs to NPDES dischargers associated with State implementation of the aluminum criteria in this rule. This analysis, *Economic Analysis for the Final Rule: Federal Aluminum Aquatic Life Criteria Applicable to Oregon,* is summarized in section VIII of the preamble and is available in the docket.

### *B. Executive Order 13771 (Reducing Regulations and Controlling Regulatory Costs)*

This action is considered an Executive Order 13771 regulatory action. Details on the estimated costs of this final rule can be found in EPA's analysis of the potential costs and benefits associated with this action.

### *C. Paperwork Reduction Act*

This action does not impose any new information-collection burden under the Paperwork Reduction Act. This action does not directly contain any information collection, reporting, or record-keeping requirements. OMB has previously approved the information collection requirements contained in the existing regulations 40 CFR part 131 and has assigned OMB control number 2040–0049.

### *D. Regulatory Flexibility Act*

The Agency certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. This action will not impose any requirements on small entities. The EPA-promulgated WQS are implemented through various water quality control programs including the NPDES program, which limits discharges to navigable waters except in compliance with a NPDES permit. CWA Section 301(b)(1)(C) [22] and EPA's implementing regulations at 40 CFR 122.44(d)(1) and 122.44(d)(1)(vii)(A) provide that all NPDES permits shall include any limits on discharges that are necessary to meet applicable WQS. Thus, under the CWA, EPA's promulgation of WQS establishes WQS that the State implements through the NPDES permit process. While the State has discretion in developing discharge limits, as needed to meet the WQS, those limits, per regulations at 40 CFR 122.44(d)(1)(i), ''must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level that will cause, have the reasonable potential to cause, or contribute to an excursion above any [s]tate water quality standard, including [s]tate narrative criteria for water quality.'' As a result of this action, the State of Oregon will need to ensure that permits it issues include any limitations on discharges necessary to comply with the WQS established in the final rule. In doing so, the State will have a number of choices associated with permit writing. Oregon's implementation of the rule may ultimately result in new or revised permit conditions for some dischargers. EPA is unaware of any current permit holders or other entities that would be required to obtain new permits or update existing permits as a result of this action, including small entities. EPA's action, by itself, does not impose any requirements on small entities; that is, the requirements are not self-implementing.

### *E. 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 goverments. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

### *F. Executive Order 13132 (Federalism)*

This action does not have federalism implications. EPA believes, however, that this action may be of significant interest to state governments. Consistent with EPA's policy to promote communications between EPA and state and local governemnts, EPA consulted with Oregon early in the process of developing this rulemaking to permit them to have meaningful and timely input into its development. EPA discussed with Oregon the Agency's development of the Federal rulemaking and clarified early in the process that if and when the State decided to develop and establish its own aluminum standards, EPA would assist the State in its process. During these discussions, EPA explained the scientific basis for the aluminum criteria to protect aquatic life for fresh waters in Oregon; the Agency's consideration of comments received during the public comment period associated with this rulemaking; and the overall timing of the Federal rulemaking effort. EPA took these discussions with the State into account during the drafting of this rule.

### *G. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

This action does not have tribal implications as specified in Executive Order 13175. This rule does not impose substantial direct compliance costs on federally recognized tribal governments, nor does it substantially affect the relationship between the Federal Government and tribes, or the distribution of power and responsibilities between the Federal Government and tribes. Thus, Executive Order 13175 does not apply to this action.

Consistent with EPA Policy on Consultation and Coordination with Indian Tribes, the Agency offered government to government consultation to potentially affected tribes during the development of this action. EPA sent letters to tribal leaders of potentially affected tribes in the Pacific Northwest offering government-to-government consultation on the proposed aluminum rule for fresh waters in Oregon. EPA held two conference calls (June 4 and June 13, 2019) with the interested tribal water quality staff to explain the Agency's proposed action and timeline. No tribes requested formal government-to-government consultation on this rulemaking. EPA has continued to apprise the tribes of the status of its final action.

### *H. Executive Order 13045 (Protection of Children From Environmental Health and Safety Risks)*

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the Agency

[22] CWA Section 301(b) Timetable for achievement of objectives. In order to carry out the objective of this chapter there shall be achieved—(1)(C): Not later than July 1, 1977, any more stringent limitation, including those necessary to meet water quality standards, treatment standards, or schedules of compliance, established pursuant to any State law or regulations (under authority preserved by section 1370 of this title) or any other Federal law or regulation, or required to implement any applicable water quality standard established pursuant to this chapter.

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 concern an environmental health risk or safety risk.

*I. Executive Order 13211 (Actions that Significantly Affect Energy Supply, Distribution, or Use)*

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

*J. National Technology Transfer and Advancement Act of 1995*

This rule does not involve technical standards.

*K. Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)*

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The freshwater criteria for aluminum in Oregon will support the health and abundance of aquatic life in Oregon, and will therefore benefit all communities that rely on Oregon's ecosystems.

*L. Congressional Review Act (CRA)*

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 131**

Environmental protection, Incorporation by reference, Indians-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

This document of the Environmental Protection Agency was signed on December 30, 2020, by Andrew Wheeler, Administrator, pursuant to the Third Amended Consent Decree in *Northwest Environmental Advocates* v. *EPA,* No. 15–cv–0663–BR (D. Ore., Mar. 16, 2020). That rulemaking document with the original signature and date is maintained by EPA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned EPA Official re-signs the document for publication, as an official document of the Environmental Protection Agency. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC.

**Jane Nishida,**

*Acting Administrator.*

For the reasons set forth in the preamble, EPA amends 40 CFR part 131 as follows:

## PART 131—WATER QUALITY STANDARDS

■ 1. The authority citation for part 131 continues to read as follows:

**Authority:** 33 U.S.C. 1251 *et seq.*

## Subpart D—Federally Promulgated Water Quality Standards

■ 2. Add § 131.47 to read as follows:

### § 131.47 Aquatic life criteria for aluminum in Oregon.

(a) *Scope.* This section promulgates aquatic life criteria for aluminum in fresh waters in Oregon that are jurisdictional under the Clean Water Act.

(b) *Criteria for aluminum in Oregon.* The aquatic life criteria in Table 1 to this paragraph (b) apply to all fresh waters in Oregon that are jurisdictional under the Clean Water Act to protect the fish and aquatic life designated uses.

TABLE 1 TO PARAGRAPH (b)—ALUMINUM AQUATIC LIFE CRITERIA FOR OREGON FRESH WATERS

| Metal | CAS No. | Criterion maximum concentration (CMC) [3] (µg/L) | Criterion continuous concentration (CCC) [4] (µg/L) |
|---|---|---|---|
| Aluminum [1] [2] ..... | 7429905 | Acute (CMC) and chronic (CCC) freshwater aluminum criteria values for a site shall be calculated using the 2018 Aluminum Criteria Calculator (*Aluminum Criteria Calculator V.2.0.xlsx*), or a calculator in R or other software package using the same 1985 Guidelines calculation approach and underlying model equations as in the Aluminum Criteria Calculator V.2.0.xlsx, as defined in EPA's Final Aquatic Life Ambient Water Quality Criteria for Aluminum.[5] | |

[1] To apply the aluminum criteria for Clean Water Act purposes, criteria values based on ambient water chemistry conditions must protect the water body over the full range of water chemistry conditions, including during conditions when aluminum is most toxic.

[2] These criteria are based on aluminum toxicity studies where aluminum was analyzed using total recoverable analytical methods. Oregon may utilize total recoverable analytical methods to implement the criteria. For characterizing ambient waters, Oregon may also utilize, as scientifically appropriate and as allowable by State and Federal regulations, analytical methods that measure the bioavailable fraction of aluminum (*e.g.,* utilizing a less aggressive initial acid digestion, such as to a pH of approximately 4 or lower, that includes the measurement of amorphous aluminum hydroxide yet minimizes the measurement of mineralized forms of aluminum such as aluminum silicates associated with suspended sediment particles or clays). Oregon shall use measurements of total recoverable aluminum where required by Federal regulations.

[3] The CMC is the highest allowable one-hour average ambient concentration of aluminum. The CMC is not to be exceeded more than once every three years. The CMC is rounded to two significant figures.

[4] The CCC is the highest allowable four-day average ambient concentration of aluminum. The CCC is not to be exceeded more than once every three years. The CCC is rounded to two significant figures.

[5] EPA–822–R–18–001, Final Aquatic Life Ambient Water Quality Criteria for Aluminum—2018, December 2018, is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available from U.S. Environmental Protection Agency, Office of Water, Health and Ecological Criteria Division (4304T), 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone number: (202) 566–1143, *www.epa.gov/wqc/aquatic-life-criteria-aluminum.* It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov* or go to *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(c) *Applicability.* (1) The criteria in paragraph (b) of this section are the applicable acute and chronic aluminum aquatic life criteria in all fresh waters in Oregon that are jurisdictional under the Clean Water Act to protect the fish and aquatic life designated uses.

(2) The criteria established in this section are subject to Oregon's general rules of applicability in the same way and to the same extent as are other federally promulgated and state-adopted numeric criteria when applied to fresh waters in Oregon that are jurisdictional under the Clean Water Act to protect the fish and aquatic life designated uses.

(3) For all waters with mixing zone regulations or implementation procedures, the criteria apply at the

appropriate locations within or at the boundary of the mixing zones and outside of the mixing zones; otherwise the criteria apply throughout the water body including at the end of any discharge pipe, conveyance, or other discharge point within the water body.

[FR Doc. 2021–05428 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 147

**[EPA–HQ–OW–2020–0595; FRL 10018–31–OW]**

**RIN 2040–ZA35**

## State of Michigan Underground Injection Control (UIC) Class II Program; Primacy Approval

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

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or Agency) is taking direct final action to approve the State of Michigan's Underground Injection Control Class II (UIC) Program for primacy. EPA has determined that the State's program is consistent with the provisions of the Safe Drinking Water Act (SDWA) at Section 1425 to prevent underground injection activities that endanger underground sources of drinking water. EPA's approval allows Michigan to implement and enforce its state regulations for UIC Class II injection wells located within the State. Michigan's authority excludes the regulation of injection well Classes I, III, IV, V, and VI, and all wells in Indian country, as required by rule under the SDWA.

**DATES:** This rule is effective on June 17, 2021 without further notice, unless EPA receives adverse comment by April 19, 2021. If EPA receives adverse comment, the Agency will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. For judicial review purposes, this final rule is promulgated as of June 17, 2021. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of June 17, 2021.

**ADDRESSES:** Submit your comments to the public docket for this rule, identified by Docket No. EPA–HQ–OW–2020–0595, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Kyle Carey, Drinking Water Protection Division, Office of Ground Water and Drinking Water (4606M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 564–2322; fax number: (202) 564–3754; email address: *carey.kyle@epa.gov,* or Anna Miller, UIC Section, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 886–7060; email address: *miller.anna@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This supplementary information is organized as follows:

I. Public Participation
II. Direct Final Rule
III. Entities Affected by This Action
IV. Legal Authorities
V. Michigan's Application
  A. Public Participation Activities Conducted by the State of Michigan
  B. Notice of Completion and Public Participation Activities Conducted by EPA
VI. Incorporation by Reference
VII. Statutory and Executive Order Reviews
  A. Executive Order 12866: Regulatory Planning and Review and Executive Order 12563: Improving Regulation and Controlling Regulatory Costs
  B. Paperwork Reduction Act
  C. Regulatory Flexibility Act
  D. Unfunded Mandates Reform Act
  E. Executive Order 13132: Federalism
  F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
  I. National Technology Transfer and Advancement Act
  J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
  K. Congressional Review Act (CRA)

### I. Public Participation

Submit your written comments, identified by Docket ID No. EPA–HQ–OW–2020–0595, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Contact EPA if you want to submit CBI; see **FOR INFORMATION CONTACT** section of this document. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19.

### II. Direct Final Rule

EPA published this rule without a prior proposed rule. The Agency views this action as noncontroversial and anticipates no adverse comment. However, in the ''Proposed Rules'' section of the **Federal Register**, EPA is publishing a separate document that serves as the proposed rule if the Agency receives adverse comment on this direct final rule. The Agency will not institute a second comment period on this action. Any parties interested in

commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, the Agency will publish a timely withdrawal in the **Federal Register**, informing the public that this direct final rule will not take effect. The Agency will then consider and address all public comments in any subsequent final rule based on the proposed rule.

## III. Entities Affected by this Action

REGULATED ENTITIES

| Category | Examples of potentially regulated entities | North American Industry Classification System |
|---|---|---|
| Industry ..... | Private owners and operators of Class II injection wells located within the state (Enhanced Recovery, Produced Fluid Disposal and Hydrocarbon Storage). | 211111 & 213111. |

This table is intended to be a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

## IV. Legal Authorities

EPA approves Michigan's UIC Program primacy application for Class II injection wells located within the State, as required by rule under the SDWA, to prevent underground injection activities that endanger underground sources of drinking water. Accordingly, the Agency codifies Michigan's program in the Code of Federal Regulations (CFR) at 40 CFR part 147, under the authority of the SDWA, Section 1425, 42 U.S.C. 300h-4. Michigan applied to EPA under Section 1425 of the SDWA for primacy for all Class II injection wells within the State except those in Indian country.

The Agency's approval is based on a legal and technical review of Michigan's primacy application. The review included an evaluation of Michigan's requirements for permitting, compliance evaluation, and enforcement and of the programmatic structures and legal authority needed to ensure the protection of underground sources of drinking water (USDWs) in coordination with EPA. Through this process the Agency determined that the State's program is effective. EPA will continue to oversee Michigan's administration of the SDWA Class II UIC program. As part of EPA's oversight responsibility, EPA will require Michigan to submit semi-annual reports of non-compliance and annual UIC performance reports pursuant to 40 CFR 144.8. The Memorandum of Agreement between EPA and Michigan, signed by the EPA Region 5 Regional Administrator on October 13, 2020, makes available to EPA any information obtained or used by Michigan's Class II UIC program, without restriction. The Agency continues to administer the UIC program for Class I, III, VI, V, and VI, injection wells in the State and for all wells in Indian country.

## V. Michigan's Application

### *A. Public Participation Activities Conducted by the State of Michigan*

The State published a notification in the *Michigan Register* announcing their UIC Class II regulations and requesting comment on February 15, 2018. Public comment was accepted through March 16, 2018, and a public hearing on the State's regulations and its intent to apply for primacy was held on February 28, 2018. Both oral and written comments received for the hearing were generally supportive of the State pursuing primacy for the UIC Class II injection well program.

### *B. Notice of Completion and Public Participation Activities Conducted by EPA*

On April 15, 2020, the Agency published a notification of Michigan's complete application in the **Federal Register** (80 FR 69629) and posted a similar announcement on the EPA Region 5 website. The document established a public comment period of 60 days and a public hearing on May 27, 2020. The May 27, 2020 public hearing was held virtually due to restrictions on meetings imposed by the State of Michigan related to COVID–19 and to protect public health. EPA had also directly contacted federally recognized tribes in the State of Michigan to provide a separate opportunity for consultation on the Michigan Class II UIC primacy application. A tribal consultation call was held on April 14, 2020.

EPA received a total of 40 public comments in the electronic docket, by paper mail, and during the virtual hearing. Thirty-seven of the comments contained general expressions of support for Michigan's application. One letter submitted was from a tribal government, offering comments and requesting specific information; these comments and request were addressed through the tribal consultation process. One electronic docket statement was determined to be out of scope of this action as it expressed a general desire for Michigan to adopt a clean energy statute. One speaker at the virtual hearing asked several questions about Michigan's program. The speaker did not make a comment or statement about the application.

Through a March 9, 2020 written letter, EPA invited interested tribes to consult regarding the Agency's review of the State's request for program approval, in accordance with *EPA Policy for Consultation and Coordination with Indian Tribes* (May 4, 2011). EPA held a telephone conference with interested tribes on April 14, 2020. Additionally, EPA received written comments from two tribes. EPA communicated the concerns raised in these comments via email to the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on July 23, 2020. In response, EGLE sent a letter dated August 6, 2020, in which the Department committed to consult and coordinate with tribes regarding permit applications for wells adjacent to Indian country (defined in accordance with 18 U.S.C. 1151) and within the ceded territory where tribes hold off-reservation treaty rights. Detailed documents covering the comments submitted to EPA through the public comment process and the tribal consultation, as well as the Agency's responses and steps taken can be viewed in the docket.

## VI. Incorporation by Reference

In this action, EPA is approving Michigan's Class II UIC program; whereby the State will assume primacy for regulating Class II injection wells in the State, except within Indian country.

Michigan's statutes and supporting documentation are publicly available in EPA's Docket No. EPA–HQ–OW–2020–0595. This action amends 40 CFR part 147 and incorporates by reference EPA-approved state statutes and regulations. EPA will continue to administer the UIC program for all other well classes in Michigan and all well classes within Indian country.

The provisions of Michigan's statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators of UIC Class II wells are incorporated by reference into 40 CFR 147.1150 by this rule. Any provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, will be enforceable by EPA pursuant to the SDWA Section 1423 and 40 CFR 147.1(e).

In order to better serve the public, EPA is reformatting the codification of ''EPA-Approved State of Michigan Safe Drinking Water Act § 1425 Underground Injection Control (UIC) Program Statutes and Regulations for Class II wells.'' Instead of codifying the Michigan statutes and regulations as separate paragraphs, EPA is now incorporating by reference a compilation that contains EPA-approved Michigan statutes and regulations for Class II wells. This compilation is incorporated by reference into 40 CFR 147.1150 and is available at *https://www.regulations.gov* in the docket for this rule. EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and in hard copy at the EPA Region 5 office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). A complete list of the Michigan statutes and regulations contained in the compilation, titled ''EPA-Approved State of Michigan Safe Drinking Water Act § 1425 Underground Injection Control (UIC) Program Statutes and Regulations for Class II wells,'' dated November 24, 2020, is codified as Table 1 to paragraph (a) in that section.

## VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review.*

This action is exempt from review by the Office of Management and Budget (OMB) because OMB has determined that the approval of primacy for the UIC program is not a significant regulatory action.

### *B. Paperwork Reduction Act (PRA)*

This action does not impose any new information collection burden under the PRA. EPA determined that there is no need for an Information Collection Request under the PRA because this direct final rule does not impose any new Federal reporting or recordkeeping requirements. Reporting or recordkeeping requirements will be based on Michigan's UIC Regulations, and Michigan is not subject to the PRA. However, OMB has previously approved the information collection activities contained in the existing UIC regulations and for Section 1425 states under the provisions of the PRA, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0042.

### *C. Regulatory Flexibility Act (RFA)*

The Agency certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. This action would not impose any new requirements on small entities. It simply approves and codifies Michigan's Class II UIC program, which meets the same effectiveness standard under SDWA Section 1425 for regulating a Class II UIC well program. EPA has therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

### *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. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector. EPA's approval of Michigan's primacy application will not constitute a Federal mandate because there is no requirement that a state establish UIC regulatory programs and because the program is a state, rather than a Federal program.

### *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: Consultation and Coordination With Indian Tribal Governments*

This action does not have tribal implications as specified in Executive Order 13175 as explained in Section V.B. Thus, Executive Order 13175 does not apply to this action.

### *G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks*

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that 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 approves a state program.

### *H. Executive Order 13211: Actions Concerning Regulations 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*

This rulemaking does not involve technical standards.

### *J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish either a new environmental health or a new safety standard. This action is providing Michigan with primacy under the SDWA for the Class II UIC program, pursuant to which Michigan will be implementing and enforcing a state regulatory program that is as effective as the existing federal program.

### *K. Congressional Review Act (CRA)*

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the

Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 147**

Environmental protection, Incorporation by reference, Indian lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply.

**Jane Nishida,**

*Acting Administrator.*

For the reasons set out in the preamble, EPA amends 40 CFR part 147 as follows:

## PART 147—STATE, TRIBAL, AND EPA-ADMINISTERED UNDERGROUND INJECTION CONTROL PROGRAMS

■ 1. The authority citation for part 147 continues to read as follows:

**Authority:** 42 U.S.C. 300f *et seq.;* and 42 U.S.C. 6901 *et seq.*

### Subpart X—Michigan

■ 2. Add § 147.1150 to read as follows:

**§ 147.1150 State-administered program—Class II wells.**

The UIC program for Class II injection wells in the State of Michigan, except for those in Indian country, is the program administered by the Michigan Department of Environment, Great Lakes, and Energy, approved by EPA pursuant to Section 1425 of the SDWA. Notification of this approval was published in the **Federal Register** on March 19, 2021; the effective date of this program is June 17, 2021. Table 1 to paragraph (a) of this section is the table of contents of the Michigan State statutes and regulations incorporated as follows by reference. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State's statutes and regulations approved by EPA for inclusion in ''EPA-Approved State of Michigan Safe Drinking Water Act § 1425 Underground Injection Control (UIC) Program Statutes and Regulations for Class II wells,'' dated November 24, 2020, and listed in Table 1 to this paragraph (a), are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Michigan. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the Michigan regulations and statutes that are incorporated by reference may be inspected at the Michigan Department of Environment, Great Lakes, and Energy, Oil, Gas, and Minerals Division, Constitution Hall, 525 West Allegan, Street, Lansing, Michigan 48909, (517) 284–6823; the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–2147; the U.S. Environmental Protection Agency, Water Docket, EPA Docket Center (EPA/DC), EPA WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20004. If you wish to obtain materials from the EPA Headquarters Library, please call the Water Docket at (202) 566–2426 or from the EPA Regional Office, please call (312) 353–2147. You may also inspect the materials at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to *www.archives.gov/federal-register/cfr/ibr-locations.html.*

TABLE 1 TO PARAGRAPH (a)—EPA-APPROVED STATE OF MICHIGAN SDWA SECTION 1425 UNDERGROUND INJECTION CONTROL PROGRAM STATUTES AND REGULATIONS FOR WELL CLASS II

| State citation | Title/subject | State effective date | EPA approval date |
|---|---|---|---|
| Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 615 (Supervisor of Wells), Michigan Compiled Laws (MCL) Sections 324.61501—324.61527. | Supervisor of Wells | Effective September 10, 2004. | March 19, 2021 [Insert FR citation of the final rule]. |
| Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 13 (Permits), MCL Sections 324.1301–324.1317. | Permits | Effective March 29, 2019 | March 19, 2021 [Insert FR citation of the final rule]. |
| Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 616 (Orphan Well Fund), MCL Sections 324.61601–324.61607. | Orphan Well Fund | Effective May 24, 1995 | March 19, 2021 [Insert FR citation of the final rule]. |
| Natural Resources and Environmental Protection Act, Act 451 of 1994, Part 17 (Michigan Environmental Protection Act), MCL Sections 324.1701 –324.1706. | Michigan Environmental Protection Act. | Effective March 30, 1995 | March 19, 2021 [Insert FR citation of the final rule]. |
| Administrative Procedures Act, Act 306 of 1969, MCL Sections 24.201–24.328. | Administrative Procedures Act. | Effective June 29, 2018 | March 19, 2021 [Insert FR citation of the final rule]. |
| Revised Judicature Act of 1961, Act 236 of 1961, MCL Section 600.631. | Revised Judicature Act | Effective April 1, 1974 | March 19, 2021 [Insert FR citation of the final rule]. |
| Michigan Department of Environmental Quality Part 615 (Oil and Gas Operations) Administrative Rules, Michigan Administrative Code (MAC) as follows:. | Oil and Gas Operations (administrative rules). | Effective 2019 | March 19, 2021 [Insert FR citation of the final rule]. |
| R 324.101 to 324.199, R 324.201 to 324.208, R 324.210 to 324.216, R 324.401 to 324.422, R 324.501 to 324.504, R 324.507, R 324.508, R 324.510, R 324.511, R 324.701 to 324.705, R 324.801 to 324.808, R 324.810 to 324.816, R 324.901 to 324.904, R 324.1001 to 324.1013, R 324.1015, R 324.1101 to 324.1130, R 324.1201 to 324.1212, R 324.1301, and R 324.1401 to 324.1406. | | | |
| Michigan Department of Licensing and Regulatory Affairs (Contested Case Procedures for Department of Environmental Quality) Administrative Rules, MAC, R 324.73 and R 324.74. | General Provisions (administrative rules). | Effective 2003 | March 19, 2021 [Insert FR citation of the final rule]. |

TABLE 1 TO PARAGRAPH (a)—EPA-APPROVED STATE OF MICHIGAN SDWA SECTION 1425 UNDERGROUND INJECTION CONTROL PROGRAM STATUTES AND REGULATIONS FOR WELL CLASS II—Continued

| State citation | Title/subject | State effective date | EPA approval date |
|---|---|---|---|
| Michigan Department of Licensing and Regulatory Affairs (Contested Case Procedures for Department of Environmental Quality) Administrative Rules, MAC, R 324.81. | Declaratory Rulings ..... (administrative rules) ..... | Effective 2003 ..... | March 19, 2021 [Insert FR citation of the final rule]. |

(b) *Memorandum of Agreement (MOA).* The MOA between EPA Region 5 and the State of Michigan Department of Environment, Great Lakes, and Energy signed by EPA Regional Administrator on October 13, 2020.

(c) *Statements of legal authority.* ''Underground Injection Control Program, Attorney General's Statement,'' signed by the Chief of the Environment, Natural Resources, and Agriculture Division of the Michigan Department of Attorney General on September 1, 2020.

(d) *Program description.* The program description submitted as part of Michigan's application, and any other materials submitted as part of this application or as a supplement thereto.

■ 3. Amend § 147.1151 by revising the section heading and the first sentence of paragraph (a) to read as follows:

**§ 147.1151 EPA-administered program—Class I, III, IV, V, and VI wells and Indian country.**

(a) * * * The UIC program for Class I, III, IV, V and VI wells and all wells in Indian country in the State of Michigan is administered by the EPA. * * *

* * * * *

■ 4. Revise §§ 147.1153, 147.1154, and 147.1155 to read as follows:

**§ 147.1153 Existing Class II disposal wells authorized by rule in Indian country.**

The owner or operator shall limit injection pressure to the lesser of:

(a) A value which will not exceed the operating requirements of § 144.28(f)(3)(i) or (ii) of this chapter as applicable; or

(b) A value for well head pressure calculated by using the following formula: Pm = (0.800 − 0.433 Sg)d, where: pm = injection pressure at the well head in pounds per square inch, sg = specific gravity of injected fluid (unitless), and d = injection depth in feet.

**§ 147.1154 Existing Class II enhanced recovery and hydrocarbon storage wells authorized by rule in Indian country.**

(a) *Maximum injection pressure.* (1) To meet the operating requirements of § 144.28(f)(3)(ii)(A) and (B) of this chapter, the owner or operator:

(i) Shall use an injection pressure no greater than the pressure established by the Regional Administrator for the field or formation in which the well is located. The Regional Administrator shall establish such a maximum pressure after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of part 124, subpart A, of this chapter, and will inform owners and operators in writing of the applicable maximum pressure; or

(ii) May inject at pressures greater than those specified in paragraph (a)(1)(i) of this section for the field or formation in which he is operating provided he submits a request in writing to the Regional Administrator, and demonstrates to the satisfaction of the Regional Administrator that such injection pressure will not violate the requirement of § 144.28(f)(3)(ii)(A) and (B) of this chapter. The Regional Administrator may grant such a request after notice, opportunity for comment, and opportunity for a public hearing, according to the provisions of part 124, subpart A, of this chapter.

(2) Prior to such time as the Regional Administrator establishes field rules for maximum injection pressure based on data provided pursuant to paragraph (a)(2)(ii) of this section the owner or operator shall:

(i) Limit injection pressure to a value which will not exceed the operating requirements of § 144.28(f)(3)(ii) of this chapter; and

(ii) Submit data acceptable to the Regional Administrator which defines the fracture pressure of the formation in which injection is taking place. A single test may be submitted on behalf of two or more operators conducting operations in the same formation, if the Regional Administrator approves such submission. The data shall be submitted to the Regional Administrator within one (1) year following June 17, 2021, the effective date of this program.

(b) *Casing and cementing.* Where the Regional Administrator determines that the owner or operator of an existing enhanced recovery or hydrocarbon storage may not be in compliance with the requirements of §§ 144.28(e) and 146.22 of this chapter, the owner or operator shall comply with paragraphs (b)(1) through (4) of this section, when required by the regional Administrator:

(1) Protect USDWs by:

(i) Cementing surface casing by recirculating the cement to the surface from a point 50 feet below the lowermost USDW; or

(ii) Isolating all USDWs by placing cement between the outermost casing and the well bore; and

(2) Isolate any injection zones by placing sufficient cement to fill the calculated space between the casing and the well bore to a point 250 feet above the injection zone; and

(3) Use cement:

(i) Of sufficient quantity and quality to withstand the maximum operating pressure;

(ii) Which is resistant to deterioration from formation and injection fluids; and

(iii) In a quantity no less than 120% of the calculated volume necessary to cement off a zone.

(4) The Regional Administrator may specify other requirements in addition to or in lieu of the requirements set forth in paragraphs (b)(1) through (3) of this section, as needed to protect USDWs.

**§ 147.1155 Requirements for all EPA-administered wells.**

(a) *Area of review.* Notwithstanding the alternatives presented in § 146.6 of this chapter, the area of review for Class II wells shall be a fixed radius as described in § 146.6(b) of this chapter.

(b) *Tubing and packer.* The owner or operator of an injection well injecting salt water for disposal shall inject through tubing and packer. The owner of an existing well must comply with this paragraph (b) within one (1) year of June 17, 2021, the effective date of this program.

[FR Doc. 2021–05435 Filed 3–18–21; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MB Docket Nos. 17–264, 17–105, 05–6; FCC 20–65, FRS 17553]**

### Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendment.

**SUMMARY:** On June 18, 2020, the Federal Communications Commission revised Commission rules. That document incorrectly listed a cross-reference. This document corrects the final regulations.

**DATES:** Effective March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Albert Shuldiner, Chief, Media Bureau, Audio Division, (202) 418–2721; Thomas Nessinger, Senior Counsel, Media Bureau, Audio Division, (202) 418–2709.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Erratum, FCC 20–65, published June 18, 2020 (85 FR 36786). This is the first set of corrections.

Because this change is editorial and non-substantive, we find good cause to conclude that notice and comment are unnecessary for its adoption. Because this rule change does not require notice and comment, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* does not apply. *See id.* section 601(2).

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

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

Accordingly, *it is ordered* that, effective on the date of publication of this Erratum in the **Federal Register**, 47 CFR 73.3580(e)(2) of the rules *is amended*, as set forth herein, pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and in sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedure Act, 5 U.S.C 553(b)(3)(B), 553(d)(3).

### List of Subjects in 47 CFR Part 73

Cable television, Civil defense, Communications equipment, Defense communications, Education, Equal employment opportunity, Foreign relations, Mexico, Political candidates, Radio, Reporting and recordkeeping requirements, Satellites, Television.

Accordingly, 47 CFR part 73 is corrected by making the following correcting amendments:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. Amend § 73.3580 by revising paragraph (e)(2) to read as follows:

**§ 73.3580 Local public notice of filing of broadcast applications.**

* * * * *

(e) * * *

(2) An applicant for renewal of a license that is required to maintain an online public inspection file shall, within seven (7) days of the last day of broadcast of the required on-air announcements, place in its online public inspection file a statement certifying compliance with this section, along with the dates and times that the on-air announcements were broadcast. An applicant for renewal of a license that is required to maintain an online public inspection file, and that is not broadcasting during all or a portion of the period during which on-air announcements are required to be broadcast, as set forth in paragraph (b)(1)(vi) of this section, shall, within seven (7) days of the last on-air announcement or last day of posting online notice, whichever occurs last, place in its online public inspection file a statement certifying compliance with this section, along with the dates and times that any on-air announcements were broadcast, along with the dates and times that online notice was posted and the Universal Resource Locator (URL) of the internet website on which online notice was posted. This certification need not be filed with the Commission but shall be retained in the online public inspection file for as long as the application to which it refers.

* * * * *

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2021–05434 Filed 3–18–21; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 210315–0057]**

**RIN 0648–BK38**

### Fisheries of the Exclusive Economic Zone Off Alaska; Central Gulf of Alaska Rockfish Program; Modify Season Start Date

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

**ACTION:** Temporary rule; emergency action.

**SUMMARY:** NMFS issues an emergency rule to modify the fishing season start date for fishing vessels participating in a rockfish cooperative as part of the Central Gulf of Alaska Rockfish Program (Rockfish Program) for the 2021 fishing year. This emergency rule is intended to provide flexibility to Rockfish Program participants by moving the fishing season start date from May 1, 2021 to April 1, 2021. This emergency rule does not modify other provisions of the Rockfish Program. This emergency rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plan for Groundfish of the Gulf of Alaska Management Area (GOA FMP) and other applicable laws.

**DATES:** Effective March 19, 2021 through September 15, 2021.

**ADDRESSES:** Electronic copies of the Regulatory Impact Review (referred to as the ''Analysis'') and the Categorical Exclusion prepared for this emergency rule may be obtained from *http://www.regulations.gov* identified by Docket ID NOAA–NMFS–2021–0021 or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska.*

**FOR FURTHER INFORMATION CONTACT:** Jennifer Watson, 907–586–7228.

**SUPPLEMENTARY INFORMATION:**

### Authority for Action

NMFS manages U.S. groundfish fisheries of the GOA under the GOA

FMP. The North Pacific Fishery Management Council (Council) prepared, and the Secretary of Commerce (Secretary) approved, the GOA FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the GOA FMP appear at 50 CFR parts 600 and 679. The Rockfish Program is implemented by the GOA FMP and regulations at 50 CFR parts 600 and 679.

**Background**

On January 29, 2021, the Council received a request from Rockfish Program participants to consider emergency action under section 305(c) of the Magnuson-Stevens Act to modify the fishing season start date for the Rockfish Program in 2021. On February 10, 2021, the Council recommended that NMFS implement an emergency rule to modify the fishing season start date for fishing vessels participating in a rockfish cooperative as part of the Rockfish Program from May 1, 2021 to April 1, 2021 to address the negative economic and social impacts on harvesters and processors participating in the Rockfish Program and the community of Kodiak, Alaska due to the Coronavirus (COVID–19) pandemic.

The following sections describe the Rockfish Program, the existing dates of the fishing season, the emergency rule, and justification for emergency action.

*The Rockfish Program*

This section provides a brief overview of the Rockfish Program and additional detail is available in Section 2 of the Analysis (see **ADDRESSES**).

The Rockfish Program is a limited access privilege program (LAPP) developed to enhance resource conservation and improve economic efficiency in the Central Gulf of Alaska (CGOA) rockfish fisheries. The Rockfish Program was implemented by Amendment 88 to the GOA FMP (76 FR 81247, December 27, 2011), and reauthorized under Amendment 111 to the GOA FMP on March 31, 2020 (86 FR 11895, March 1, 2021). For more information about the background and history of this program, see the preamble to the final rule for Amendment 111 (86 FR 11895, March 1, 2021).

Generally, the Rockfish Program (1) assigns quota share (QS) and cooperative quota (CQ) to participants for primary and secondary species, (2) allows a participant holding an license limitation program (LLP) license with rockfish QS to form a rockfish cooperative with other persons, (3) allows holders of catcher/processor LLP licenses to opt-out of rockfish cooperatives for a given year, (4) establishes a limited access fishery for participants who do not participate in a fishery cooperative for a given year, (5) includes an entry level longline fishery for persons who do not hold rockfish QS, (6) establishes constraints, commonly known as sideboard limits, for other non-Rockfish Program fisheries that apply to vessels and LLP licenses eligible to participate in the Rockfish Program, and (7) includes monitoring and enforcement provisions.

As summarized in Sections 2 and 4.2 of the Analysis (see **ADDRESSES**), one of the overall goals of the Rockfish Program is to provide greater security to harvesters through the formation of rockfish cooperatives. Fishing under cooperative management resulted in a slower-paced fishery that allows a harvester to choose when to fish. The Rockfish Program also provided greater stability for processors by spreading out production over a longer period. Overall, the Rockfish Program provides greater benefits to shoreside processors, catcher/processors, CGOA fishermen, and communities than were realized under the previous LLP management scheme.

Amendment 111 to the FMP and the implementing final rule (86 FR 11895, March 1, 2021) reauthorized the Rockfish Program, removed the Rockfish Program sunset date of December 31, 2021 and addressed a variety of administrative and management issues associated with the existing Rockfish Program. For more detail on the changes made by Amendment 111 to the FMP, see the preambles to the proposed rule (85 FR 55243, September 4, 2020) and final rule (86 FR 11895, March 1, 2021).

*Rockfish Program Fishing Season Dates*

Fishing by cooperative participants, specifically fishing vessels, under the Rockfish Program is currently authorized from 1200 hours, A.l.t., May 1 through 1200 hours, A.l.t., November 15 each year. With implementation of the Rockfish Program, the Central GOA rockfish fishery has changed from an approximate 3-week race to fish starting at the beginning of July, to a fishery that primarily occurs in May and June, with smaller harvest amounts occurring until November. Prior to the implementation of the Rockfish Program, the Gulf of Alaska rockfish fisheries opened on July 1 for fishing vessels using trawl gear.

As summarized in Section 3 of the Analysis (see **ADDRESSES**), the Rockfish Program was developed to slow the race for fish, minimize bycatch and associated mortalities, provide for improved conservation of habitat, and address the social and economic concerns that have arisen under the original management system. The longer fishing season established under the Rockfish Program provides participants access to markets (including a possible fresh market) that were historically impossible to access because of the short duration and timing of the previous open access fishing season. In addition, by slowing the race for fish, Rockfish Program participants could focus on improving the quality of their landings, increasing fishery value and reducing overall Prohibited Species Catch (PSC).

The lengthened fishing season under the Rockfish Program, enables cooperative members to consolidate their rockfish allocations and realize operational efficiencies.

As summarized in Section 3.6 of the Analysis, the start and end dates for the current fishing season under the Rockfish Program were set based on considerations of bycatch of other species, rockfish reproduction, and processor activity. The pre-Rockfish Program July season start date for the rockfish trawl fishery was intended to reduce halibut PSC.

Under the Rockfish Program, an earlier start date was implemented because PSC limits are effectively managed by participating cooperatives. Bycatch of non-PSC species has been minimally impacted by the extended Rockfish Program season. The overall level of halibut, chinook and chum salmon PSC in the Rockfish Program remains low due to the PSC avoidance measures implemented by cooperative managers that include various reporting requirements and bycatch standards that have been proven to reduce PSC under the extended season.

In establishing existing Rockfish Program season start date, the Council and NMFS considered the timing of rockfish reproduction. The proposed April 1 season start date for this emergency rule is within the range of season start dates analyzed in the implementation of Rockfish Program. Section 3.6 of the Analysis prepared for this emergency rule notes that modifying the opening season start date to April 1 would not create a biological concern but that the most conservative management approach would be to maintain the season start date at May 1 to marginally reduce any potential fishery impacts on rockfish reproduction and improve operational efficiency by staggering the opening of this fishery relative to other fisheries.

The season closing date of November 15 was selected to allow for fishing activity to be distributed over the course

of the year where value could be maximized and efficiencies improved. An earlier or later end date was not given a large amount of consideration as November 15 corresponds closely with when processors and plants are generally closing for the fishing year.

**This Emergency Rule and Justification for Emergency Action**

This emergency rule modifies the season start date from May 1, 2021 to April 1, 2021 for fishing vessel members of a cooperative under the Rockfish Program in the 2021 fishing year. This emergency rule is intended to provide flexibility for vessel operators and shoreside processors that receive deliveries from harvesters in a cooperative by establishing a longer timeframe in which they would be able to harvest the quota. This emergency rule adds regulations at § 679.80(a)(3)(iii) to modify the season start date to begin on April 1 at 1200 hours Alaska local time for the 2021 fishing year. This emergency rule temporarily suspends regulations at § 679.80(a)(3)(ii) that authorize fishing vessels that are members of rockfish cooperatives to commence fishing on May 1 at 1200 hours Alaska local time for the 2021 fishing year. The season end date of November 15 at 1200 hours Alaska local time remains unchanged. This emergency rule does not modify any other aspect of the Rockfish Program. Modifying the season start date to April 1 would only affect the 2021 fishing year. In subsequent years, the season start date would return to May 1.

This emergency action does not impose additional restrictions on the fishery, but would alleviate limitations on the fishery. This emergency rule does not increase the amount of fish available to harvest, increase the risk of overharvest, or otherwise modify conservation measures. This emergency rule is needed to allow for the complete and efficient harvest of the rockfish fishery and to temporarily alleviate unforeseen economic and social consequences due to the recent and unforeseen limitations on the rockfish fishery. This emergency rule does not modify existing requirements on the types of vessels and gear that could be used, monitoring requirements, record keeping regulations, or other aspects of the Rockfish Program.

Section 305(c) of the Magnuson-Stevens Act authorizes the Secretary to promulgate regulations to address an emergency. Under that section, a Council may request that the Secretary promulgate emergency regulations. NMFS's Policy Guidelines for the Use of Emergency Rules require that an emergency must exist and that NMFS have an administrative record justifying emergency regulatory action and demonstrating compliance with the Magnuson-Stevens Act and the National Standards (see NMFS Procedure 01–101–07 (March 31, 2008) and 62 FR 44421; August 21, 1997). Emergency rulemaking is intended for circumstances that are ''extremely urgent,'' where ''substantial harm to or disruption of the . . . fishery . . . would be caused in the time it would take to follow standard rulemaking procedures (62 FR 44421–01).''

Under NMFS' Policy Guidelines for the Use of Emergency Rules, the phrase ''an emergency exists involving any fishery'' is defined as a situation that meets the following three criteria:

1. Results from recent, unforeseen events or recently discovered circumstances;

2. Presents serious conservation or management problems in the fishery; and

3. Can be addressed through emergency regulations for which the immediate benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rule making process.

The following sections describe why the Council and NMFS determined that modifying the season start date to April 1 for the 2021 fishing year meets these criteria.

*Criterion 1—Recent, Unforeseen Events or Recently Discovered Circumstances*

Two recent and recently discovered circumstances have limited the ability of vessels to harvest and process groundfish in the port of Kodiak in 2021. Rockfish Program catcher vessels and the shoreside processors the vessels deliver to are located only in the port of Kodiak. First, beginning in early 2021, the groundfish fleet operating out of Kodiak has discovered that there are no longer economically viable markets for a variety of flatfish species, including species such as arrowtooth flounder. For several decades, these markets have been essential to harvesters and processors operating out of Kodiak. This lack of economically viable markets has created an unforeseen lack of harvesting and deliveries to processors operating out of Kodiak in the month of April. The U.S. government has recognized the impact of limited seafood markets and included flatfish fisheries prosecuted in Alaska in the Seafood Trade Relief Program (STRP), which provides payments to eligible commercial fishermen of seafood commodities that have been impacted by trade actions of foreign governments resulting in the loss of exports (85 FR 56572). In addition to flatfish, Kodiak processors and harvesters are heavily dependent on the salmon and rockfish fisheries. Rockfish landings at Kodiak processors occur in May and June, after flatfish in April, and are followed by summer salmon landings.

Second, COVID–19 outbreaks in January and February 2021 in three large processors in the communities of Akutan and Unalaska, shut down fishing and processing operations in those communities for several weeks, creating widespread disruptions during the fishing season and broad economic impacts. Throughout 2020, processing facilities in Alaska were able to operate effectively with limited long-term disruption to processing activities. While Kodiak processors have not seen widespread COVID–19 outbreaks, the mitigation measures there mirrored those of the three large processors in the communities of Akutan and Unalaska. The closure of processing facilities in Alaska in early 2021 was not anticipated based on largely successful mitigation of COVID–19 in 2020. Even with strict mitigation measures in place, these outbreaks raise concern of future outbreaks across processing facilities in Alaska. Given the continued risk of COVID–19 transmission and outbreaks, and lack of widespread vaccinations, fishery participants anticipate there may be additional processor shutdowns throughout 2021.

For Kodiak processors, an earlier start date for the Rockfish Program will help alleviate the operational disruption and economic impact from the lack of a flatfish market in April and will help ensure adequate processing capacity to fully prosecute the rockfish program fisheries throughout the 2021 fishing season. Due to these limitations, and the recent, unforeseen circumstances, an emergency action is required to move the start date of the 2021 Rockfish Program fishery to April 1.

*Criterion 2—Presents Serious Conservation or Management Problems in the Fishery*

Recent, unforeseen, and ongoing COVID–19 outbreaks in processing plants across Alaska present serious management problems in the Rockfish Program. If the season start is not moved to April 1, 2021, there is a risk that the rockfish season may conflict with the summer salmon fisheries, causing seafood businesses to choose between one revenue source or another, particularly if a COVID outbreak occurs

in Kodiak and reduces processing capacity for several weeks. This presents a serious management problem for the fishery.

Additionally, moving the season start date to April 1, 2021 will help processors continue to employ fishermen and plant personnel throughout April, a month that is typically busy with flatfish but will have an anticipated gap in 2021 due to the lack of a flatfish market. By permitting fishing and processing operations through the month of April, this emergency rule would result in a decrease in travel to and from the port of Kodiak, Alaska, thereby reducing the health risks to essential seafood workers and residents.

*Criterion 3—Can Be Addressed Through Emergency Rulemaking for Which the Immediate Benefits Outweigh the Value of Notice and Comment Rulemaking*

NMFS and the Council have determined that the emergency situation created by the lack of a flatfish market and the continued risk of COVID–19 outbreaks across processing and fishing operations can be addressed by emergency regulations. Opening the rockfish season one month earlier does not create conservation and management concerns because the earlier start date was analyzed during the development of the Rockfish Program and is consistent with the overall goals of the Rockfish Program to provide additional harvest flexibility to cooperative participants.

To address the emergency in a timely manner, NMFS must implement an emergency rule that waives the notice-and-comment rulemaking period. The benefits of waiving notice-and-comment rulemaking will serve the industry and public by allowing an additional month for fishery participants to harvest rockfish. Any delay that results in implementing this rulemaking may impact the ability for the fishery to start earlier. Section 4 of the Analysis (see **ADDRESSES**) describes the potential additional harvest opportunities for the rockfish participants in greater detail.

Without the waiver of notice-and-comment rulemaking, the Rockfish Program cooperative participants will not have sufficient time for operational planning before the requested April 1, 2021 season opening date. Without sufficient notice of the season opening date, fish processors participating in the Rockfish Program may not have enough time to staff their facilities and coordinate fishing activities for an earlier season.

The Council could not recommend and NMFS could not implement an earlier season start date through the conventional notice-and-comment rulemaking process before the regular 2021 Rockfish Program begins on May 1. Typically, the process of Council analysis and rulemaking takes at least one-year to implement. In this case, NMFS received the request for regulatory change on February 10, 2021, and the next regularly scheduled Council meeting begins April 5, 2021. Given that the Rockfish Program starts on May 1, 2021, this rule starts the season a month earlier, and the time required for Council action and notice-and-comment rulemaking, this process could not be accomplished before the earlier start date of April 1, 2021.

As discussed further below, emergency-based fishery regulations that waive prior notice and comment and a 30-day delay in effectiveness period must be consistent with the requirements of the Administrative Procedure Act (APA).

## Classification

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) of the APA to waive prior notice and the opportunity for public comment because it would be impracticable and contrary to the public interest. The benefits of waiving notice-and-comment rulemaking will serve the industry and public by allowing an additional month for fishery participants to harvest rockfish. Any delay that results in implementing this rulemaking may impact the ability for the fishery to start earlier. This emergency rule would modify the season start date for members of a rockfish cooperative as part of the Central Gulf of Alaska Rockfish Program (Rockfish Program) for the 2021 fishing year. This emergency rule is intended to provide flexibility to Rockfish Program participants by moving the season start date from May 1, 2021 to April 1, 2021. This emergency rule does not modify other provisions of the Rockfish Program.

This emergency rule is in response to the recent and unforeseen impacts that have prompted a limited shoreside market for flatfish as a result of the unforeseen lack of economically viable groundfish markets and the continued impacts of the COVID–19 pandemic and associated health concerns on the members of rockfish cooperatives. The lack of the flatfish market, comprising species such as arrowtooth flounder, have created a processing gap for the month of April in Kodiak. Modifying the season start to one month earlier will provide additional flexibility to Rockfish Program participants to mitigate negative economic and social impacts to harvesters and processors and the community of Kodiak, Alaska. Without the increased flexibility of an earlier season start date, if a COVID outbreak occurs resulting in the reduction of processing capacity for several weeks, the rockfish season may conflict with the summer salmon fisheries, causing harvesters and processors to choose between revenue sources. It is likely that a significant portion of the harvest could be forgone. The associated loss in harvesting and processing revenues would likely impact the harvesters, crew, and communities that are active in the Rockfish Program.

Industry participants notified the Council and NMFS on January 29, 2021, of the continued safety and health concerns of the ongoing pandemic and seafood tariffs may impact Rockfish Program participants for the 2021 fishing year. The Council and NMFS had no way of foreseeing the impact on fishery operations.

Finally, the time required for notice-and-comment rulemaking would not provide relief from the forgone harvests because it would not provide sufficient time before the proposed season start date. The Rockfish Program season start date is May 1 and there is not enough time to follow the standard rulemaking process prescribed by the Magnuson-Stevens Act and required by the APA. NMFS has no other way than this emergency rule to amend the season start date in time to restore forgone fishing opportunities for 2021. Allowing for a longer time to harvest rockfish quota will provide immediate social and economic benefits that outweigh the value of the deliberative notice-and-comment rulemaking process.

Similarly, for the reasons above that support the need to implement this emergency rule in a timely manner, the Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness provision of the APA and make the emergency rule effective immediately upon publication in the **Federal Register**. As stated above, NMFS anticipates that this emergency rule will allow for additional flexibility to Rockfish Program participants to harvest and process the quota over a longer timeframe and should prevent prolonged economic losses from the potential forgone harvests.

This action is being taken pursuant to the emergency provision of the Magnuson-Stevens Act and is exempt from Office of Management and Budget (OMB) review.

This emergency rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is not subject to the requirement to provide prior notice and opportunity for public comment pursuant to 5 U.S.C. 553 or any other law. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

*Collection-of-Information Requirements*

This emergency 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: March 15, 2021.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

## PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.80, stay paragraph (a)(3)(ii) and add paragraph (a)(3)(iii) to read as follows:

### § 679.80 Allocation and transfer of rockfish QS.

* * * * *

(a) * * *

(3) * * *

(iii) *Rockfish cooperative.* Fishing by vessels participating in a rockfish cooperative is authorized from 1200 hours, A.l.t., April 1, 2021 through 1200 hours, A.l.t., November 15, 2021.

* * * * *

[FR Doc. 2021–05685 Filed 3–16–21; 4:15 pm]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 86, No. 52
Friday, March 19, 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.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R07–OAR–2021–0171; FRL–10021–33–Region 7]**

## Air Plan Approval; Nebraska; Revisions to Title 115 of the Nebraska Administrative Code; Rules of Practice and Procedure

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) submitted by the State of Nebraska on September 24, 2020. This proposed action will amend the SIP to revise title 115 of the Nebraska Administrative Code ''Nebraska Rules of Practice and Procedure.'' Title 115 describes the procedures the Nebraska Department of Environment and Energy (NDEE), formerly the Nebraska Department of Environmental Quality (NDEQ), will follow for proceedings under the Administrative Procedure Act. These proceedings include contested cases, rulemaking petitions, and declaratory rulings among others. In addition, title 115 contains procedures related to submission and review of confidentiality claims for trade secrets, public hearing requirements for permits, and other fact-finding hearings not covered in other more program specific regulatory titles. These proposed changes consolidate five chapters into a single chapter by removing duplicative language and incorporating by reference model rules of agency procedure promulgated by the Attorney General for agency use in accordance with the Administrative Procedure Act. The proposed revisions also update language; renumber chapters; and make minor wording changes. The proposed changes do not substantively change any existing statutory or regulatory requirement or impact the stringency of the SIP or air quality, do not revise emission limits or procedures, nor do they impact the State's ability to attain or maintain the National Ambient Air Quality Standards.

**DATES:** Comments must be received on or before April 19, 2021.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA–R07–OAR–2021–0171 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

*Instructions:* All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7714; email address: *stone.william@epa.gov.*

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

### Table of Contents

I. Written Comments
II. What is being addressed in this document?
III. Have the requirements for approval of a SIP revision been met?
IV. What action is EPA taking?
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

### I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2021–0171, at *https://www.regulations.gov.* 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 *https://www.epa.gov/dockets/commenting-epa-dockets.*

### II. What is being addressed in this document?

EPA is proposing to amend Nebraska's SIP to include revisions to title 115 of the Nebraska Administrative Code. The EPA is proposing to approve revisions to the Nebraska SIP received on September 24, 2020. The revisions are to Title 115—Nebraska Rules of Practice and Procedure. These revisions are described in detail in the technical support document (TSD) included in the docket for this action.

EPA is proposing approval of these revisions as they do not substantively change any existing statutory or regulatory requirement. These revisions do not impact the stringency of the SIP or air quality.

### III. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided public notice of the revisions from February 28, 2019, to April 2, 2019, and held a public hearing on April 3, 2019. The state received no comments. As explained in more detail in the TSD which is part of this docket, the SIP revision submission meets the substantive requirements of the Clean Air Act (CAA), including section 110 and implementing regulations.

### IV. What action is the EPA taking?

The EPA is proposing to amend the Nebraska SIP by approving the State's request to revise Title 115—Nebraska Rules of Practice and Procedure. Approval of these revisions will ensure consistency between state and federally-approved rules. The EPA has determined that these changes will not adversely impact air quality.

The EPA is processing this as a proposed action because we are

soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

## V. Incorporation by Reference

In this action, the EPA is proposing to include regulatory text in a final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Nebraska Regulations described in the proposed amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER 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 Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 9, 2021.

**Edward H. Chu,**

*Acting Regional Administrator, Region 7.*

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

## Subpart CC—Nebraska

■ 2. In § 52.1420:

■ a. The table in paragraph (c) is amended by revising the entries ''115–1'', ''115–2'', and ''115–3''; and

■ b. The table in paragraph (c) is amended by removing the entries ''115–4'', ''115–5'', ''115–6'', ''115–7'', ''115–8'', ''115–9'', and ''115–10''.

The revisions read as follows:

**§ 52.1420 Identification of plan.**

* * * * *

(c) * * *

EPA—APPROVED NEBRASKA REGULATIONS

| Nebraska citation | Title | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| | | | **STATE OF NEBRASKA Department of Environmental Quality** | |
| * | * | * | * | * |
| | | | **Title 115—Rules of Practice and Procedure** | |
| 115–1 .... | Adoption of Model Rules. | 6/24/2019 | [Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule]. | |
| 115–2 .... | Confidentiality for Trade Secrets. | 6/24/2019 | [Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule]. | |
| 115–3 .... | Public Hearings | 6/24/2019 | [Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule]. | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2021–05321 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 147

**[EPA–HQ–OW–2020–0595; FRL 10019–85–OW]**

## State of Michigan Underground Injection Control (UIC) Class II Program; Primacy Approval

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

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or Agency) is proposing to approve the State of Michigan's Underground Injection Control Class II (UIC) Program for primacy. EPA determined that the State's program is consistent with the provisions of the Safe Drinking Water Act (SDWA) at Section 1425 to prevent underground injection activities that endanger underground sources of drinking water. The Agency's approval allows Michigan to implement and enforce its state regulations for UIC Class II injection wells located within the State. Michigan's authority excludes the regulation of injection well Classes I, III, IV, V and VI, and all wells in Indian country, as required by rule under the SDWA. The Agency requests public comment on this proposed rule and supporting documentation. In the ''Rules and Regulations'' section of this **Federal Register**, the Agency published EPA's approval of the State's program as a direct final rule without a prior proposed rule. If the Agency receives no adverse comment on the direct final rule, EPA will not take further action on this proposed rule.

**DATES:** Written comments must be received by April 19, 2021.

**ADDRESSES:** You may submit comments, identified by Docket ID No. EPA–HQ–OW–2020–0595, through the Federal eRulemaking Portal at: *https://www.regulations.gov/.* Follow the online instructions for submitting comments. All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19.Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mail. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at: *https://www.epa.gov/dockets.*

EPA is offering one virtual public hearing so that interested parties may also provide oral comments on the proposed rulemaking. For more information on the virtual public hearing and to register to attend, please visit: *https://www.epa.gov/npdes/.* Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

**FOR FURTHER INFORMATION CONTACT:** Kyle Carey, Drinking Water Protection Division, Office of Ground Water and Drinking Water (4606M), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2322; fax number: (202) 564–3754; email address: *carey.kyle@epa.gov,* or Anna Miller, UIC Section, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 886–7060; email address: *miller.anna@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This supplementary information section is organized as follows:

### I. Public Participation

Submit your written comments, identified by Docket ID No. EPA–HQ–OW–2020–0595, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Contact EPA if you want to submit CBI; see **FOR INFORMATION CONTACT** section of this document. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID–19.

### II. The Proposed Rule

EPA proposes to approve Michigan's UIC Program primacy application for Class II injection wells located within the State (except all wells in Indian country), because it meets all requirements under SDWA for such programs. The proposed rule would grant Michigan primary enforcement authority to prevent Class II (oil and gas-related) underground injection activities that endanger underground sources of drinking water. Accordingly, the Agency proposes to codify the State's program in the Code of Federal Regulations (CFR) at 40 CFR part 147. EPA will continue to administer the UIC Program for injection well Classes I, III, IV, V and VI, and for all wells in Indian country.

EPA has published a direct final rule in the ''Rules and Regulations'' section of the **Federal Register**, approving the State's program because EPA views this approval as noncontroversial and anticipates no adverse comment. For the Agency's rationale for approval and additional supplementary information, please see the preamble to the direct final rule. If EPA receives no adverse comment on the direct final rule, the Agency will not take further action on this proposed rule. If EPA receives adverse comment on the direct final rule, the Agency will withdraw the direct final rule and it will not take effect. The Agency would then consider and address all public comments in any subsequent final rule based on this proposed rule. The Agency does not intend to institute a second comment period. Any parties interested in commenting must do so at this time.

For further information, please contact the persons listed in the **FOR FURTHER INFORMATION CONTACT** section.

**Jane Nishida,**

*Acting Administrator.*

[FR Doc. 2021–05436 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

**[CG Docket Nos. 03–123, 10–51, 13–24; FCC 20–161; FRS 17375]**

### TRS Fund Contributions

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) proposes to expand the telecommunications relay services (TRS) Fund contribution base for support of video relay service (VRS) and internet Protocol (IP) Relay to include intrastate, as well as interstate, end-user revenues from providers of telecommunications and Voice over IP (VoIP) services.

**DATES:** Comments are due April 19, 2021. Reply comments are due May 3, 2021.

**ADDRESSES:** You may submit comments, identified by CG Docket Nos. 03–123, 10–51, and 12–38, by either of the following methods:

- *Federal Communications Commission's website: https://www.fcc.gov/ecfs/filings.* Follow the instructions for submitting comments.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* document FCC 20–161 at *https://docs.fcc.gov/public/attachments/FCC-20-161A1.pdf.*

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), document FCC 20–161, adopted on November 18, 2020, released on November 20, 2020 in CG Docket Nos. 03–123, 10–51, and 12–38. The full text of document FCC 20–161 is available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530.

This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

### Initial Paperwork Reduction Act of 1995 Analysis

The NPRM seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Public Law 104–13; 44 U.S.C. 3501–3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Public Law 107–198; 44 U.S.C. 3506(c)(4).

### Synopsis

1. In the NPRM, document FCC 20–161, the Commission proposes to complete the process of updating the mechanism for the funding of internet-based TRS. When the Commission first authorized use of the internet to provide TRS, it decided as an interim measure that all of the costs of providing internet-based TRS should be paid by contributors to the TRS Fund, based only on their interstate telecommunications revenue. In the *IP CTS Contributions Order,* published at 85 FR 462, January 6, 2020, the Commission recognized that this ''interim'' funding mechanism, which disproportionately burdens providers and users of interstate services, was no longer justifiable as a means of supporting one internet-based form of TRS—internet Protocol Captioned Telephone Service (IP CTS), and expanded the contribution base for that service to include intrastate as well as interstate end-user revenues. The Commission now proposes to expand the TRS Fund contribution base for the other two forms of internet-based TRS—video relay service (VRS) and internet Protocol Relay Service (IP Relay)—so that providers of intrastate voice communications must contribute to the TRS Fund for the support of these services as well.

2. To conform the funding of VRS and IP Relay to the requirements of section 225 of the Communications Act of 1934, as amended (the Act), and to harmonize cost recovery for these services with the cost recovery plan adopted for IP CTS, the Commission proposes to expand the

TRS Fund contribution base for VRS and IP Relay to include intrastate revenues of telecommunications carriers and VoIP service providers for several reasons.

3. *First,* the current funding arrangements were authorized as interim measures to speed the development of these services and were not intended to be permanent. Twenty years later, the primary purpose of these interim arrangements has been achieved. VRS has grown to be the second largest TRS program, and even IP Relay, with much lower demand than VRS, now accounts for more annual minutes than all state TRS programs combined.

4. *Second,* the inherent inequities and limitations of the interim contribution arrangement for these services loom much larger today, given the current size of the TRS funding requirement—more than $1.6 billion for TRS Fund Year 2020–21. Nearly all of this amount is attributable to support for the three internet-based relay services—IP CTS, VRS, and IP Relay. IP CTS is projected to cost the TRS Fund approximately $1 billion and is supported by all end-user telecommunications and VoIP revenues, with a contribution factor of less than 1%. VRS and IP Relay, with projected expenditures of $575 million in Fund Year 2020–21, are supported by a 1.33% contribution only from interstate end-user telecommunications and VoIP revenues, with no contribution from intrastate revenues. By contrast, approximately 58% of IP CTS costs are funded from intrastate end-user revenues, and 75% of the costs of relay services provided through state TRS programs are funded from intrastate sources.

5. The burden of supporting the $575 million annual cost of VRS and IP Relay has widely disparate impacts on TRS Fund contributors, based solely on the extent of interstate usage of their services. In TRS Fund Year 2020–21, for example, providers of interstate-only services must contribute approximately 1.33% of their annual end-user revenues to support VRS and IP Relay. By contrast, service providers for which only 42% of end-user revenues are interstate (the industry average) contribute only 0.56% of annual end-user revenues to support these services. And providers of intrastate-only services, of which there are at least 200, contribute nothing to support VRS and IP Relay, despite consumers' use of VRS and IP Relay to make intrastate calls.

6. *Third,* the recovery of VRS and IP Relay costs based on interstate revenues alone appears likely to cause distortions in the pricing of interstate and intrastate voice services due to inaccurate market signals regarding their relative costs. As the Commission has recognized in various contexts, applying artificial regulatory distinctions or other disparate treatment to providers of similar services may create unintended market distortions, which can reduce the effectiveness of competition in ensuring efficient pricing of telecommunications services.

7. *Fourth,* the total amount of end-user revenues from which TRS Fund contributions can be drawn has been steadily decreasing over time, worsening the impact of the current funding arrangement on interstate service providers and users and increasing any existing distortion between intrastate and interstate service prices. Expanding contributions to support VRS and IP Relay to encompass intrastate as well as interstate revenues would strengthen the sustainability of these services.

8. The Commission seeks comment on this proposal and its costs and benefits. Are there additional aspects of the current state of the VRS and IP Relay programs that support either altering or maintaining the current interstate-only funding mechanism? Are there differences between those programs and IP CTS, such that the interim funding arrangement for VRS and IP Relay should be retained, notwithstanding the facts stated above and the Commission's 2019 determination that the interim plan was no longer suitable for IP CTS?

9. *Legal Authority.* Section 225 of the Act requires the Commission to ensure that both ''interstate and intrastate [TRS] are available, to the extent possible and in the most efficient manner.'' The Act directs the Commission to adopt, administer, and enforce regulations governing the provision of interstate and intrastate TRS, including rules on cost separation, which ''shall generally provide'' that interstate TRS costs are recovered from interstate services and intrastate TRS costs are recovered from the intrastate jurisdiction. Section 225 of the Act also authorizes, but does not require, the establishment of state-administered TRS programs and funding mechanisms, subject to approval by the Commission.

10. The Commission believes it has statutory authority to include the intrastate end-user revenues of telecommunications carriers and VoIP service providers in the calculation of TRS Fund contributions to support VRS and IP Relay, to the extent that these services continue to be funded solely through the TRS Fund. Section 225 of the Act expressly directs the Commission to ensure that both interstate and intrastate TRS are available and grants the Commission broad authority to establish regulations governing both interstate and intrastate TRS, including TRS cost recovery. Congress expressly carved section 225 out from the Act's general reservation of state authority over intrastate communications, and responsibility for administering TRS is shared with the states only to the extent that a state applies for and receives Commission approval to exercise such authority. The Commission believes this analysis equally supports the Commission's authority to adopt the same approach to funding an appropriate share of the costs of VRS and IP Relay from intrastate revenues. The Commission seeks comment on the above analysis and assumptions. Are there differences between the provision of IP CTS and the provision of VRS and IP Relay that could affect the Commission's statutory analysis?

11. *Implementation.* The Commission proposes to apply a separate contribution factor for VRS and IP Relay which is applied to all (interstate and intrastate) end-user revenues of each TRS Fund contributor, using a single contribution factor to determine the total level of support required for all three services from a contributor's total intrastate and interstate end-user revenues. To implement this approach, the TRS Fund administrator would determine a revenue requirement for all three services, based on the applicable compensation rates and projected demand. Next, based on the total intrastate and interstate end-user revenue data reported by TRS Fund contributors on Forms 499–A, the TRS Fund administrator would compute a separate TRS Fund contribution factor for the three services, by dividing the revenue requirement by contributors' total intrastate and interstate end-user revenues.

12. The Commission tentatively concludes that implementation of this approach does not require separation of VRS and IP Relay costs, because a single contribution factor would apply to contributors' total interstate and intrastate end-user revenues, regardless of the proportion of VRS and IP Relay minutes and costs that might be deemed interstate or intrastate. Accordingly, it would not be necessary to refer this matter to a Federal-State Joint Board, absent a state request to include VRS or IP Relay in state program offerings. The Commission seeks comment on this implementation proposal and tentative conclusion. Is the above approach reasonable, equitable to all providers, and consistent with the requirements of

section 225 of the Act? What are the costs and benefits of this approach? How should a state opting to include VRS or IP Relay in its state TRS program affect the Commission's analysis?

13. Are there alternative implementation approaches the Commission should consider? Commenters proposing an alternative approach should discuss the costs and benefits of their preferred approach.

14. *Inclusion of VRS and IP Relay in State Programs.* To date, no state TRS program provides VRS or IP Relay, and the Commission believes that some of the same impediments to states administering and funding intrastate IP CTS may exist for intrastate VRS and IP Relay.

15. The Commission nonetheless seeks comment on how the Commission should proceed in the event that a state requests certification to include VRS or IP Relay in a state TRS program. What modifications to the cost recovery method described above would be necessary to ensure that cost recovery is fairly apportioned and that TRS Fund contributors providing service within the affected state are not subjected to double payment of their share of intrastate VRS or IP Relay costs? Should the Commission refer such state requests to a Federal-State Joint Board, in order to make an appropriate determination regarding separation of intrastate and interstate TRS costs?

16. *Economic Impact.* Expanding the TRS Fund contribution base for VRS and IP Relay to include intrastate revenues would likely reduce the TRS funding contributions that are passed on by contributing providers to users of interstate telecommunications and VoIP services, and concomitantly increase the contributions that are passed on to users of intrastate services. This broadening of the base on which TRS Fund contributions are made would tend to reduce any current distortions in the relative prices of intrastate and interstate services, increasing economic efficiency by more accurately signaling relative costs to purchasers, which in turn will generate more efficient provider investment signals. The change the Commission proposes would cause some one-off implementation costs, but with the exception of any repricing, most of these would be *de minimis,* since current TRS Fund administrative processes would be left intact. Any repricing costs, being one-off, are likely to be small relative to the ongoing benefits such repricing would bring. Thus, the Commission tentatively concludes the benefits of more efficient production and consumption would exceed any implementation costs of the proposed rule change. The Commission seeks comment on this. Broadening the base on which TRS Fund contributions are based also would ensure fair treatment of intrastate and interstate service providers and users in TRS funding and the long-term sustainability of the TRS Fund. This justifies the redistribution the Commission's action would impose on interstate and intrastate service providers and their customers. The Commission seeks comment on this analysis.

17. *Compliance date.* In the *IP CTS Contributions Order,* the Commission required intrastate carriers and VoIP service providers to contribute revenue to fund IP CTS starting with TRS Fund year 2020–21, to allow reasonable time for the Commission to amend relevant forms, for any carriers and VoIP service providers that have only intrastate revenue to register and prepare for submission of IP CTS contributions to the TRS Fund administrator, and for the TRS Fund administrator and Universal Service Administrative Company (USAC) to process such registrations. In setting that timeline, the Commission afforded seven months for these steps to be taken. If the Commission moves forward with implementing its proposed rule change, carriers and VoIP service providers that have only intrastate revenue will already be registered to submit contributions to the TRS Fund given the Commission's earlier change to the IP CTS cost recovery rules. Nevertheless, the Commission will still need to amend the instructions for the relevant forms, and it would be administratively efficient to tie the compliance date to the start of new TRS Fund year. The Commission seeks comment on whether a similar timeline should apply to affected providers if the proposed rule change is adopted, or whether some other timeline would be more appropriate.

## Initial Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared the Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on the NPRM. The Commission will send a copy of the NPRM to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

### *Need For, and Objectives of, the Proposed Rules*

19. In the NPRM, the Commission proposes to expand the TRS Fund contribution base for VRS and IP Relay to require contributions based on a percentage of interstate, international, *and intrastate* end-user revenues. The Commission also seeks comment on how it should proceed in the event that a state requests certification to include VRS or IP Relay in a state TRS program.

### *Legal Basis*

20. The authority for the proposed rulemaking is contained in sections 1, 2, and 225 of the Act, as amended, 47 U.S.C. 151, 152, 225.

### *Small Entities Impacted*

21. If the proposed rule amendments are adopted, various categories of providers of telecommunications and VoIP services may have to increase their contributions to the TRS Fund, including Wired Telecommunications Carriers, Telecommunications Resellers, Wireless Telecommunications Carriers (except Satellite), and All Other Telecommunications.

### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

22. Because TRS Fund contributors' intrastate end-user revenues are currently included in the contribution base for IP CTS, the Commission's existing rules require telecommunications carriers and VoIP providers that provide intrastate telecommunications services to register with the TRS Fund administrator and submit contribution payments to the TRS Fund. The NPRM proposes no new reporting, recordkeeping, or other compliance requirements.

### *Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered*

23. If the Commission adopts its proposal to require TRS Fund contributions from intrastate end-user revenue to support VRS and IP Relay, the contributions required from interstate and international end-user revenue would be correspondingly reduced. As a result, while some small entities may be required to make increased payments to the TRS Fund, other small entities would experience a reduction in TRS Fund contributions. The proposal would not increase the total contributions required, and the additional costs incurred by some small entities would be offset by cost reductions for other small entities and by the benefits of appropriately

allocating the funding of the provision of VRS and IP Relay among all telecommunications carriers and VoIP providers. By including intrastate revenues in the contribution base, the VRS and IP Relay programs, including the providers and users, would be supported by a broader, more sustainable contribution base.

24. The Commission seeks comment from all interested parties. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the proposals outlined in the NPRM. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the NPRM, in reaching its final conclusions and taking action in this proceeding.

*Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals*

25. None.

**List of Subjects in 47 CFR Part 64**

Individuals with disabilities, Telecommunications, Telecommunications relay services. Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

Proposed Rules

**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend Title 47 part 64 as follows:

## PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

**Authority:** 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 262, 276, 403(b)(2)(B), (c), 616, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

### § 64.604 [AMENDED]

■ 2. Amend § 64.604 by revising paragraphs (c)(5)(ii) and (c)(5)(iii)(A) to read as follows:

### § 64.604 Mandatory minimum standards.

* * * * *

(c) * * *

(5) * * *

(ii) *Cost recovery.* Costs caused by interstate TRS shall be recovered from all subscribers for every interstate service, utilizing a shared-funding cost recovery mechanism. Except as noted in this paragraph, costs caused by intrastate TRS shall be recovered from the intrastate jurisdiction. In a state that has a certified program under § 64.606, the state agency providing TRS shall, through the state's regulatory agency, permit a common carrier to recover costs incurred in providing TRS by a method consistent with the requirements of this section. Costs caused by the provision of interstate and intrastate IP CTS, VRS, and IP Relay, if not provided through a certified state program under § 64.606, shall be recovered from all subscribers for every interstate and intrastate service, using a shared-funding cost recovery mechanism.

(iii) * * *

(A) *Contributions.* Every carrier providing interstate or intrastate telecommunications services (including interconnected VoIP service providers pursuant to § 64.601(b)) and every provider of non-interconnected VoIP service shall contribute to the TRS Fund, as described herein:

(*1*) For the support of TRS other than IP CTS, VRS, and IP Relay, on the basis of interstate end-user revenues; and

(*2*) For the support of IP CTS, VRS, and IP Relay on the basis of interstate and intrastate revenues. Contributions shall be made by all carriers who provide interstate or intrastate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international, and resale services.

* * * * *

[FR Doc. 2021–04484 Filed 3–18–21; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1, 3, 12, and 52

**[FAR Case 2013–022, Docket No. FAR–2013–0022, Sequence No. 1]**

**RIN 9000–AM69**

## Federal Acquisition Regulation: Extension of Limitations on Contractor Employee Personal Conflicts of Interest

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** DoD, GSA, and NASA are withdrawing the proposed rule to amend the Federal Acquisition Regulation (FAR) titled: Extension of Limitations on Contractor Employee Personal Conflicts of Interest. The decision not to proceed with a final rule was made on the basis that the requirements of the underlying statute that directed consideration of a FAR change have been met. Accordingly, this proposed rule is withdrawn, and the FAR case is closed.

**DATES:** The proposed rule published on April 2, 2014, at 79 FR 18503 is withdrawn as of March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Mahruba Uddowla, Procurement Analyst, at 703–605–2868 or *mahruba.uddowla@gsa.gov.* Please cite ''FAR Case 2013–022''.

**SUPPLEMENTARY INFORMATION:** On April 2, 2014, DoD, GSA, and NASA proposed to amend the FAR to implement a recommendation made by DoD pursuant to section 829 of the National Defense Authorization Act for Fiscal Year 2013 (79 FR 18503). The proposed rule considered extending the limitations at FAR subpart 3.11 on contractor employee personal conflicts of interest to individuals performing any function that is closely associated with inherently governmental functions and certain individuals performing contracts for personal services.

A decision was made not to proceed with finalization of the proposed rule. Because of the passage of time since the proposed rule was issued in 2014, and the fact that section 829 did not require any changes to the FAR, the FAR Council believes further consideration of any amendments to the FAR related

to limitations on contractor employee personal conflicts of interest should be accomplished under a new FAR case. Accordingly, the proposed rule published at 79 FR 18503 on April 2, 2014, is withdrawn and FAR Case 2013–022 is closed.

**List of Subjects in 48 CFR Parts 1, 3, 12, and 52**

Government procurement.

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2021–05660 Filed 3–18–21; 8:45 am]

BILLING CODE 6820–EP–P

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 1, 7, 25, 44, and 52

**FAR Case 2018–002, Docket No. FAR–2018–0051, Sequence No. 1]**

**RIN 9000–AN62**

### Federal Acquisition Regulation: Protecting Life in Global Health Assistance

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** DoD, GSA, and NASA are withdrawing the proposed rule to amend the Federal Acquisition Regulation (FAR) titled: Protecting Life in Global Health Assistance. The decision not to proceed with a final rule has been made because the Presidential Memorandum regarding ''The Mexico City Policy,'' dated January 23, 2017, has been revoked by the Memorandum on Protecting Women's Health at Home and Abroad issued by President Biden on January 28, 2021. Accordingly, this proposed rule is withdrawn, and the FAR case is closed.

**DATES:** The proposed rule published on September 14, 2020, at 85 FR 56549 is withdrawn as of March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** FAR Policy, at 202–969–4075 or *farpolicy@gsa.gov.* Please cite ''FAR Case 2018–002''.

**SUPPLEMENTARY INFORMATION:** On September 14, 2020, DoD, GSA, and NASA proposed to amend the FAR to implement the Presidential Memorandum regarding ''The Mexico City Policy,'' issued on January 23, 2017. The Secretary of State approved on May 9, 2017, a plan, called ''Protecting Life in Global Health Assistance'' (PLGHA), to specify the manner in which U.S. Government Departments and Agencies will apply the provision of the ''Mexico City Policy'' to foreign non-governmental organizations that receive U.S. funding for global health assistance. The rule proposed amendments to limit the foreign contractors eligible to receive global health assistance funding to only those that agree to abide by the terms of the PLGHA policy in their contract or subcontract.

On January 28, 2021, the Memorandum on Protecting Women's Health at Home and Abroad was issued by President Biden which revoked the Presidential Memorandum regarding ''The Mexico City Policy.'' Accordingly, the proposed rule published at 85 FR 56549 on September 14, 2020, is withdrawn and FAR Case 2018–002 is closed.

**List of Subjects in 48 CFR Parts 1, 7, 25, 44, and 52**

Government procurement.

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2021–05661 Filed 3–18–21; 8:45 am]

BILLING CODE 6820–EP–P

## DEPARTMENT OF DEFENSE

## GENERAL SERVICES ADMINISTRATION

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### 48 CFR Parts 2, 3, 4, 7, 9, 11, 12, 13, 14, 15, 16, 18, 37, 42, 52 and 53

**[FAR Case 2011–001, Docket No. FAR–2011–0001, Sequence No. 1]**

**RIN 9000–AL82**

### Federal Acquisition Regulation: Organizational Conflicts of Interest

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** DoD, GSA, and NASA are withdrawing the proposed rule to amend the Federal Acquisition Regulation (FAR) titled: Organizational Conflicts of Interest. The decision not to proceed with a final rule has been made given the amount of time that has passed since publication of the proposed rule. Accordingly, this proposed rule is withdrawn, and the FAR case is closed.

**DATES:** The proposed rule published on April 26, 2011, at 76 FR 23236 is withdrawn as of March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Mahruba Uddowla, Procurement Analyst, at 703–605–2868 or *mahruba.uddowla@gsa.gov.* Please cite ''FAR Case 2011–001''.

**SUPPLEMENTARY INFORMATION:** April 26, 2011, DoD, GSA, and NASA proposed to amend the FAR to revise regulatory coverage on organizational conflicts of interest (OCI) and provide additional coverage regarding contractor access to nonpublic information (76 FR 23236). The proposed rule sought public comment on a revised approach to OCI and unequal access to nonpublic information, as well as the OCI framework for major defense acquisition programs implemented in the Defense Federal Acquisition Regulation Supplement (DFARS) via DFARS Case 2009–D015 (75 FR 20954, April 22, 2010).

Given the amount of time that has passed since publication of the proposed rule, and potential changed circumstances, a decision has been made not to proceed with finalization of the FAR rule. Accordingly, the proposed rule published at 76 FR 23236 on April 26, 2011, is withdrawn and FAR Case 2011–001 is closed. Consideration of any future amendments to the FAR related to organizational conflicts of interest or unequal access to nonpublic information will be accomplished under a new FAR case.

**List of Subjects in 48 CFR Parts 2, 3, 4, 7, 9, 11, 12, 13, 14, 15, 16, 18, 37, 42, 52 and 53**

Government procurement.

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2021–05658 Filed 3–18–21; 8:45 am]

BILLING CODE 6820–EP–P

**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 19 and 35**

**[FAR Case 2012–015, Docket No. FAR–2012–0015, Sequence No. 1]**

**RIN 9000–AM33**

## Federal Acquisition Regulation: Small Business Set Asides for Research and Development Contracts

**AGENCY:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** DoD, GSA, and NASA are withdrawing the proposed rule to amend the Federal Acquisition Regulation (FAR) titled: Small Business Set Asides for Research and Development Contracts. The decision not to proceed with a final rule was made because of the passage of time since the proposed rule was issued, and input from respondents indicating that the proposed changes were, on balance, unnecessary or unhelpful. Accordingly, this proposed rule is withdrawn, and the FAR case is closed.

**DATES:** The proposed rule published on August 10, 2012, at 77 FR 47797 is withdrawn as of March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Malissa Jones, Procurement Analyst, at 703–605–2815 or *malissa.jones@gsa.gov.* Please cite ''FAR Case 2012–015''.

**SUPPLEMENTARY INFORMATION:** On August 10, 2012, DoD, GSA, and NASA proposed to amend the FAR to clarify that contracting officers shall set aside acquisitions for research and development in excess of the simplified acquisition threshold when the market research conducted in accordance with FAR part 10 indicates there are small businesses capable of providing the best scientific and technological approaches (77 FR 47797). The proposed rule was in response to a request from the Small Business Administration to review whether the language at FAR 19.502–2(b)(2) creates an additional or unique condition that must be met before a contracting officer can proceed with a small business set-aside for research and development.

A decision was made not to proceed with finalization of the proposed rule. Because of the passage of time, and input from respondents indicating that the proposed changes were, on balance, unnecessary or unhelpful, the FAR Council has concluded that consideration of any future amendments to the FAR related to small business set-asides for research and development should be accomplished under a new FAR case. Accordingly, the proposed rule published at 77 FR 47797 on August 10, 2012, is withdrawn and FAR Case 2012–015 is closed.

### List of Subjects in 48 CFR Parts 19 and 35

Government procurement.

**William F. Clark,**

*Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.*

[FR Doc. 2021–05659 Filed 3–18–21; 8:45 am]

**BILLING CODE 6820–EP–P**

# Notices

Federal Register
Vol. 86, No. 52
Friday, March 19, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

March 16, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 19, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

#### Food and Nutrition Service

*Title:* Supplemental Nutrition Assistance Program Requirement for National Directory of New Hires Employment Verification.

*OMB Control Number:* 0584–0608.

*Summary of Collection:* This collection is a revision of an expired collection at 84 FR 11928. In 2016, an Interim Final Rule titled ''Supplemental Nutrition Assistance Program: Requirement for National Directory of New Hires Employment Verification and Annual Program Activity Reporting,'' was published in the **Federal Register**. This rule codified section 4013 of the Agricultural Act of 2014, requiring State agencies to access employment data through the National Directory of New Hires (NDNH) at the time of certification, including recertification, to determine eligibility status and correct benefit amount for SNAP applicants. The rule also amended regulations to increase the frequency of the requirement for State agency submission of the Program Activity Statement from an annual requirement based on the State fiscal year to a quarterly requirement.

*Need and Use of the Information:* Supplemental Nutrition Assistance Program (SNAP) regulations at 7 CFR 272.16 require that each State agency must establish a system to compare identifiable information about each adult household member against data from the U.S. Department of Health and Human Services' (HHS) National Directory of New Hires (NDNH). This comparison will be used to determine the eligibility status of the household and determine the correct benefit amount the household should receive. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall 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 that were 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 use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Description of Respondents:* State and Local Government, Individuals and Households.

*Number of Respondents:* 1,180,536.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 521,719.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2021–05699 Filed 3–18–21; 8:45 am]

BILLING CODE 3410–30–P

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

**[Docket No. FSIS–2021–0005]**

### Notice of Request for Revision of an Approved Information Collection (Consumer Complaint Monitoring System)

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to revise the approved information collection regarding its Consumer Complaint Monitoring System (CCMS) web portal. The Agency has increased the burden estimate by 575 hours due to increased use of the Agency's updated, more user-friendly web portal that supports more direct communication. The approval for this information collection will expire on September 30, 2021.

**DATES:** Submit comments on or before May 18, 2021

**ADDRESSES:** FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides commenters the ability to type short comments directly into the comment field on the web page or to attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow

the on-line instructions at that site for submitting comments.

• *Mail,* including CD–ROMs, etc.: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.

• *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Washington, DC 20250–3700.

*Instructions:* All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2021–0005. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

*Docket:* For access to background documents or comments received, call (202)205–0495 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

**FOR FURTHER INFORMATION CONTACT:** Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 720–5627.

**SUPPLEMENTARY INFORMATION:**

*Title:* Consumer Complaint Monitoring System.

*OMB Number:* 0583–0133.

*Expiration Date of Approval:* 9/30/2021.

*Type of Request:* Revision of an approved information collection.

*Abstract:* FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53), as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting a revision of the approved information collection regarding its Consumer Complaint Monitoring System (CCMS) web portal. The Agency has increased the burden estimate by 575 hours due to increased use of the Agency's updated, more user-friendly web portal that supports more direct communication. The approval for this information collection will expire on September 30, 2021.

FSIS tracks consumer complaints about meat, poultry, and egg products. Consumer complaints are usually filed when food makes a consumer sick, causes an allergic reaction, is not properly labeled (misbranded), or contains a foreign object. FSIS uses a web portal to allow consumers to electronically file a complaint with the Agency about a meat, poultry, or egg product. FSIS uses this information to look for trends that will enhance the Agency's food safety efforts.

FSIS has made the following estimates based upon an information collection assessment.

*Estimate of Burden:* The public reporting burden for this collection of information is estimated to average 15 minutes per response.

*Respondents:* Consumers and organizations.

*Estimated Number of Respondents:* The CCMS web portal will have approximately 3,000 respondents.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* The total annual burden time is estimated to be about 750 hours for respondents using the CCMS web portal.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method 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, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**Additional Public Notification**

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

**USDA Non-Discrimination Statement**

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

*How to File a Complaint of Discrimination*

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

*Mail:* U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

*Fax:* (202) 690–7442

*Email: program.intake@usda.gov*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

**Theresa Nintemann,**

*Acting Administrator.*

[FR Doc. 2021–05734 Filed 3–18–21; 8:45 am]

**BILLING CODE 3410–DM–P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration, U.S. Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

**SUMMARY:** The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

**SUPPLEMENTARY INFORMATION:**

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[3/9/2021 through 3/12/2021]

| Firm name | Firm address | Date accepted for investigation | Product(s) |
|---|---|---|---|
| WireCo WorldGroup, Inc | 2400 West 75th Street, Prairie Village, KS 66208. | 3/10/2021 | The firm manufactures steel wire and steel rope. |
| Walker Tool & Die, Inc | 2411 Walker Avenue Northwest, Grand Rapids, MI 49544. | 3/10/2021 | The firm manufactures metal stamping dies. |
| Kenney Industries, Inc | 2110 Panoramic Circle, Dallas, TX 75212. | 3/11/2021 | The firm manufactures miscellaneous metal parts. |
| R & J Metal Finishing, Inc | 273 Gould Avenue, Depew, NY 14043 | 3/11/2021 | The firm provides metal plating and metal coating services. |
| Reel Power Industrial, Inc | 5101 South Council Road, Oklahoma City, OK 73179. | 3/12/2021 | The firm manufactures machinery for reeling and coiling. |

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

**Bryan Borlik,**

*Director.*

[FR Doc. 2021–05656 Filed 3–18–21; 8:45 am]

**BILLING CODE 3510–WH–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–21–2021]**

### Foreign-Trade Zone (FTZ) 99—Wilmington, Delaware; Notification of Proposed Production Activity; AstraZeneca Pharmaceuticals LP (Pharmaceutical Products); Newark, Delaware

AstraZeneca Pharmaceuticals LP (AstraZeneca) submitted a notification of proposed production activity to the FTZ Board for its facility in Newark, Delaware. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 11, 2021.

AstraZeneca already has authority to produce certain pharmaceutical products within Subzone 99D. The current request would add finished products and foreign status materials to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt AstraZeneca from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for the foreign-status materials/components noted below and in the existing scope of authority, AstraZeneca would be able to choose the duty rates during customs entry procedures that apply to: CALQUENCE (acalabrutinib) capsules; DAKLINZA (daclatasvir) tablets; FARXIGA\FORXIGA (dapagliflozin) tablets; KOMBIGLYZE IR (metformin hydrochloride and saxagliptin hydrochloride) tablets; KOMBIGLYZE XR (metformin hydrochloride and saxagliptin hydrochloride) tablets; METFORMIN IR (metformin hydrochloride) tablets; ONGLYZA (saxagliptin hydrochloride) tablets; QTERN (dapagliflozin and saxagliptin hydrochloride) tablets; QTERNMET XR (dapagliflozin, metformin hydrochloride and saxagliptin hydrochloride) tablets; TAGRISSO (osimertinib mesylate) tablets; XIGDUO IR (dapagliflozin and metformin hydrochloride) tablets; XIGDUO XR (dapagliflozin & metformin hydrochloride) tablets; and, CRESTOR (rosuvastatin calcium) tablets (duty-free). AstraZeneca would be able to

avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials sourced from abroad include: Metformin hydrochloride active pharmaceutical ingredient (API); dapagliflozin API; daclatasvir API; osimertinib mesylate API; acalabrutinib API; saxagliptin hydrochloride API; rosuvastatin calcium API; and, microcrystalline cellulose (duty rate ranges from 3.7% to 6.5%). The request indicates that certain materials are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov*. The closing period for their receipt is April 28, 2021.

A copy of the notification will be available for public inspection in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz*.

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov*.

Dated: March 15, 2021.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2021–05732 Filed 3–18–21; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–900]**

### Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of the 2015–2016 Antidumping Duty Administrative Review and Notice of Amended Final Results of Review

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On February 24, 2021, the U.S. Court of International Trade (the Court) entered final judgment sustaining the final results of remand redetermination pursuant to court order by the U.S. Department of Commerce (Commerce) pertaining to the 2015–2016 antidumping duty (AD) administrative review on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (China). Commerce is notifying the public that the final judgment in this case is not in harmony with Commerce's final results in the 2015–2016 AD administrative review of diamond sawblades from China, and that Commerce is amending the final results.

**DATES:** Applicable March 6, 2021.

**FOR FURTHER INFORMATION CONTACT:** Allison Hollander, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2805.

**SUPPLEMENTARY INFORMATION:**

### Background

On April 20, 2018, Commerce published its final results of the 2015–2016 AD administrative review for diamond sawblades from China.[1] In the *Final Results,* we determined the dumping margin for both mandatory respondents, Chengdu Huifeng New Material Technology Co., Ltd. (Chengdu Huifeng) and the Jiangsu Fengtai Single Entity,[2] based entirely on adverse facts available (AFA). Because all the mandatory respondents' rates were based on AFA (and were both the same at 82.05 percent), we applied the mandatory respondents' rate to the companies eligible for a separate rate that were not selected for individual examination, consistent with section 735(c)(5)(B) of the Tariff Act of 1930, as amended (the Act) and the ''expected method'' of the SAA.[3]

On September 23, 2019, the Court remanded aspects of the *Final Results* to Commerce for further consideration.[4] The Court remanded Commerce's decision to reject as untimely a supplemental questionnaire response submitted by Chengdu Huifeng and directed Commerce to consider Chengdu Huifeng's response in calculating Chengdu Huifeng's individual dumping margin.[5] If this resulted in a change to Chengdu Huifeng's margin, the Court ordered Commerce to adjust the separate rate respondents' rates accordingly.[6] In its first remand redetermination, issued in March 2020,[7] Commerce accepted Chengdu Huifeng's response and calculated an individual dumping margin of zero percent for Chengdu Huifeng.[8] Because all the mandatory respondents' rates were either zero, *de minimis,* or based entirely on AFA, Commerce continued to determine the separate rate pursuant to the ''expected method.''[9] Specifically, Commerce averaged the zero percent margin for Chengdu Huifeng with the 82.05 percent margin for the Jiangsu Fengtai Single Entity to determine a 41.03 percent rate for the separate rate companies.[10]

On July 14, 2020, the Court sustained Commerce's calculation of Chengdu Huifeng's zero percent individual margin but remanded Commerce's determination of the separate rate, finding that Commerce improperly did not consider lower margins from prior administrative reviews in determining whether the separate rate reasonably reflects the separate rate companies' potential dumping behavior.[11] In its Second Remand Redetermination, issued in October 2020, Commerce considered the rates from prior reviews, under respectful protest, and determined that the prior rates support continuing to use the expected method to determine the separate rate.[12] Accordingly, Commerce continued to calculate a separate rate of 41.03. The Court sustained the Second Remand Redetermination in full.[13]

### Timken Notice

In its decision in *Timken,*[14] as clarified by *Diamond Sawblades,*[15] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) of the Act, Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce

[1] *See Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015–2016,* 83 FR 17527 (April 20, 2018) (*Final Results*), and accompanying Issues and Decision Memorandum.

[2] The Jiangsu Fengtai Single Entity is comprised of Jiangsu Fengtai Diamond Tool Manufacturer Co., Ltd., Jiangsu Fengtai Diamond Tools Co., Ltd., and Jiangsu Fengtai Sawing Industry Co., Ltd.

[3] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, vol. 1 (1994) at 883 (SAA); *see also Albemarle Corp.* v. *United States,* 821 F.3d 1345 (Fed. Cir. 2016).

[4] *See Bosun Tools* v. *United States,* Court No. 18–00102, Slip Op. 19–125 (September 23, 2019).

[5] *Id.* at 14–15.

[6] *Id.*

[7] *See Bosun Tools* v. *United States,* Court No. 18–00102, Slip Op. 19–125, ''Final Results of Redetermination Pursuant to Court Remand,'' dated March 9, 2020 (First Remand Redetermination).

[8] *Id.* at 6.

[9] *Id.* at 7–8.

[10] *Id.* at 8.

[11] *See Bosun Tools* v. *United States,* Court No. 18–00102, Slip Op. 20–97 (July 14, 2020).

[12] *See Bosun Tools* v. *United States,* Court No. 18–00102, Slip Op. 20–97, ''Final Second Remand Redetermination,'' dated October 13, 2020 (Second Remand Redetermination).

[13] *See Bosun Tools* v. *United States,* Court No. 18–00102, Slip Op. 21–23 (February 24, 2021).

[14] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[15] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010).

determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's February 24, 2021 judgment constitutes a final decision of that court that is not in harmony with Commerce's *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, Commerce will continue suspension of liquidation of subject merchandise pending expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

## Amended Final Results

Because there is now a final court decision, Commerce is amending the *Final Results* with respect to Chengdu Huifeng and the separate rate companies that are party to the litigation. The revised AD margins for the period November 1, 2015, through October 31, 2016, are as follows:[16]

| Exporter | Weighted-average dumping margin (percent) |
|---|---|
| Chengdu Huifeng New Technology Co., Ltd | 0.00 |
| Bosun Tools Co., Ltd | 41.03 |
| Danyang NYCL Tools Manufacturing Co., Ltd | 41.03 |
| Danyang Weiwang Tools Manufacturing Co., Ltd | 41.03 |
| Guilin Tebon Superhard Marterial Co., Ltd | 41.03 |
| Hangzhou Deer King Industrial and Trading Co., Ltd | 41.03 |
| Jiangsu Youhe Tool Manufacturer Co., Ltd | 41.03 |
| Quanzhou Zhongzhi Diamond Tool Co., Ltd | 41.03 |
| Rizhao Hein Saw Co., Ltd | 41.03 |
| Zhejiang Wanli Tools Group Co., Ltd | 41.03 |

## Amended Cash Deposit Rates

Because all of the companies have been subject to a subsequent administrative review which established revised cash deposit rates,[17] Commerce will not issue revised cash deposit instructions to U.S. Customs and Border Protection.

## Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1) and 777(i)(1) of the Act.

Dated: March 15, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2021–05760 Filed 3–18–21; 8:45 am]

BILLING CODE 3510–DS–P

[16] *See* Second Remand Redetermination at 2–3.

[17] *See Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 64331 (December 14, 2018); *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017–2018,* 85 FR 71308 (November 9, 2020).

# DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–570–122, C–570–123]**

## Certain Corrosion Inhibitors From the People's Republic of China: Antidumping Duty and Countervailing Duty Orders

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** Based on affirmative final determinations by the Department of Commerce (Commerce) and International Trade Commission (ITC), Commerce is issuing antidumping duty (AD) and countervailing duty (CVD) orders on certain corrosion inhibitors (corrosion inhibitors) from the People's Republic of China (China).

**DATES:** Applicable March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Andre Gziryan (AD), Theodore Pearson (CVD), or Nicholas Czajkowski (CVD), AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2201, (202) 482–2631, or (202) 482–1395, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

In accordance with sections 705(d) and 735(d) of the Tariff Act of 1930, as amended (the Act), on January 29, 2021, Commerce published its affirmative final determination that countervailable subsides are being provided to producers and exporters of corrosion inhibitors from China and its affirmative final determination in the less-than-fair-value (LTFV) investigation of corrosion inhibitors from China.[1] On March 12, 2021, pursuant to sections 705(d) and 735(d) of the Act, the ITC notified Commerce of its final affirmative determinations that an industry in the United States is materially injured by reason of subsidized imports and LTFV imports of corrosion inhibitors from China, within the meaning of sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Act.[2]

## Scope of the Orders

The products covered by these orders are corrosion inhibitors from China. For a full description of the scope of these orders, *see* Appendix I.

## AD Order

As stated above, on March 12, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of corrosion inhibitors from China that are sold in the United States at LTFV.[3] Therefore, in accordance with section 735(c)(2) of the Act, we are issuing this AD order. Because the ITC determined that imports of corrosion inhibitors from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China entered, or withdrawn from warehouse, for consumption are subject to the assessment of antidumping duties.

Therefore, in accordance with sections 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Patrol (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise and countervailing duties for all relevant entries of corrosion inhibitors from China. Antidumping duties will be assessed on unliquidated entries of corrosion inhibitors from China entered, or withdrawn from warehouse, for consumption on or after September 10, 2020, the date of publication of the *AD Preliminary Determination,* but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination, as further described below.[4]

[1] *See Certain Corrosion Inhibitors from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 7532 (January 29, 2021); *see also Certain Corrosion Inhibitors from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 86 FR 7537 (January 29, 2021) (*CVD Final Determination*).

[2] *See* ITC's Letter, ''Notification of ITC Final Determinations,'' dated March 12, 2021 (ITC Notification Letter).

[3] *Id.*

[4] *See Certain Corrosion Inhibitors from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 55825 (September 10, 2020) (*AD Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

**Continuation of Suspension of Liquidation—AD**

Except as noted in the ''Provisional Measures—AD'' section of this notice, in accordance with section 735(c)(1)(B) of the Act, Commerce will instruct CBP to continue to suspend liquidation on all relevant entries of corrosion inhibitors from China. These instructions suspending liquidation will remain in effect until further notice.

Commerce will also instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the table below, adjusted by the export subsidy offset. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determination, CBP must require, at the same time as importers would deposit estimated normal customs duties on subject merchandise, a cash deposit equal to the rates listed in the table below.

**Estimated Weighted-Average Dumping Margins**

The estimated weighted-average dumping margins are as follows:

| Producer | Exporter | Estimated weighted-average dumping margin (percent) | Cash deposit rate (adjusted for subsidy offsets) (percent) |
|---|---|---|---|
| Nantong Botao Chemical Co., Ltd | Jiangyin Delian Chemical Co., Ltd | 130.52 | 72.50 |
| Nantong Kanghua Chemical Co., Ltd | Jiangyin Delian Chemical Co., Ltd | 130.52 | 72.50 |
| Nantong Botao Chemical Co., Ltd | Nantong Botao Chemical Co., Ltd | 139.41 | 101.71 |
| Anhui Trust Chem Co., Ltd | Anhui Trust Chem Co., Ltd | 134.97 | 87.11 |
| Gold Chemical Limited | Gold Chemical Limited | 134.97 | 87.11 |
| Jiangsu Bohan Industry Trade Co., Ltd | Gold Chemical Limited | 134.97 | 87.11 |
| Jiangyin Gold Fuda Chemical Co., Ltd | Gold Chemical Limited | 134.97 | 87.11 |
| Ningxia Ruitai Technology Co., Ltd | Gold Chemical Limited | 134.97 | 87.11 |
| SHANGHAI SUNTECH BIOCHEMICAL CO., LTD | Gold Chemical Limited | 134.97 | 87.11 |
| Nantong Kanghua Chemical Co., Ltd | Nantong Kanghua Chemical Co., Ltd | 134.97 | 87.11 |
| Anhui Trust Chem Co., Ltd | Nanjing Trust Chem Co., Ltd | 134.97 | 87.11 |
| China-Wide Entity | | 277.90 | 241.02 |

**Provisional Measures—AD**

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that account for a significant proportion of corrosion inhibitors from China, Commerce extended the four-month period to six months in this AD investigation. Commerce published the *AD Preliminary Determination* in this investigation on September 10, 2020.[5]

The extended provisional measures period, beginning on the date of publication of the preliminary determination, ended on March 8, 2021. Therefore, in accordance with section 733(d) of the Act and our practice, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of corrosion inhibitors from China entered, or withdrawn from warehouse, for consumption after March 8, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determination in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determination in the **Federal Register**.

**CVD Order**

As stated above, on March 12, 2021, in accordance with section 705(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of corrosion inhibitors from China.[6] Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing this CVD order. Because the ITC determined that imports of corrosion inhibitors from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, entered, or withdrawn from warehouse, for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of corrosion inhibitors from China, which are entered, or withdrawn from warehouse, for consumption on or after July 13, 2020, the date of publication of the *CVD Preliminary Determination,* but will not include entries occurring after the expiration of the provisional measures period and before the publication of the ITC's final injury determination under section 705(b) of the Act, as further described in the ''Provisional Measures—CVD'' section of this notice.[7]

**Suspension of Liquidation and Cash Deposits—CVD**

In accordance with section 706 of the Act, Commerce will instruct CBP to reinstitute the suspension of liquidation of corrosion inhibitors from China, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce, pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates below. On or after the date of publication of the ITC's final injury determination in the **Federal Register**, CBP must require, at the same time as importers would deposit estimated normal customs duties on this merchandise, a cash deposit equal to the rates listed in the table below. These instructions suspending liquidation will remain in effect until further notice. The all-others

[5] *See AD Preliminary Determination.*

[6] *See* ITC Notification Letter.

[7] *See Certain Corrosion Inhibitors from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination,* 85 FR 41960 (July 13, 2020) (*CVD Preliminary Determination*), and accompanying PDM.

rate applies to all producers or exporters not specifically listed below, as appropriate.

| Company | Subsidy rate (percent) |
|---|---|
| Jiangyin Delian Chemical Co., Ltd | 93.05 |
| Nantong Botao Chemical Co., Ltd[8] | 61.62 |
| CAC Shanghai Chemical Co., Ltd | 239.21 |
| Jiangyin Gold Fuda Chemical Co., Ltd | 239.21 |
| Xinji Xi Chen Re Neng Co., Ltd | 239.21 |
| All Others | 77.34 |

## Provisional Measures—CVD

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. Commerce published the *CVD Preliminary Determination* on July 13, 2020.[9] As such, the four-month period beginning on the date of the publication of the *CVD Preliminary Determination* ended on November 9, 2020. Furthermore, section 707(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 703(d) of the Act, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of corrosion inhibitors from China entered, or withdrawn from warehouse, for consumption, on or after November 10, 2020, the date on which the provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final determination in the **Federal Register**.

## Notification to Interested Parties

This notice constitutes the AD and CVD orders with respect to corrosion inhibitors from China pursuant to section 706(a) and 736(a) of the Act. Interested parties can find a list of AD and CVD orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html*.

These orders are published in accordance with sections 706(a) and 736(a) of the Act, and 19 CFR 351.211(b).

Dated: March 15, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### Scope of the Orders

The merchandise covered by these orders is tolyltriazole and benzotriazole. This includes tolyltriazole and benzotriazole of all grades and forms, including their sodium salt forms. Tolyltriazole is technically known as Tolyltriazole IUPAC 4,5 methyl benzotriazole. It can also be identified as 4,5 methyl benzotriazole, tolutriazole, TTA, and TTZ.

Benzotriazole is technically known as IUPAC 1,2,3-Benzotriazole. It can also be identified as 1,2,3-Benzotriazole, 1,2-Aminozophenylene, lH-Benzotriazole, and BTA.

All forms of tolyltriazole and benzotriazole, including but not limited to flakes, granules, pellets, prills, needles, powder, or liquids, are included within the scope of these orders.

The scope includes tolyltriazole/sodium tolyltriazole and benzotriazole/sodium benzotriazole that are combined or mixed with other products. For such combined products, only the tolyltriazole/sodium tolyltriazole and benzotriazole/sodium benzotriazole component is covered by the scope of these orders. Tolyltriazole and sodium tolyltriazole that have been combined with other products is included within the scope, regardless of whether the combining occurs in third countries.

Tolyltriazole, sodium tolyltriazole, benzotriazole and sodium benzotriazole that is otherwise subject to these orders is not excluded when commingled with tolyltriazole, sodium tolyltriazole, benzotriazole, or sodium benzotriazole from sources not subject to these orders. Only the subject merchandise component of such commingled products is covered by the scope of these orders.

A combination or mixture is excluded from these orders if the total tolyltriazole or benzotriazole component of the combination or mixture (regardless of the source or sources) comprises less than 5 percent of the combination or mixture, on a dry weight basis.

Notwithstanding the foregoing language, a tolyltriazole or benzotriazole combination or mixture that is transformed through a chemical reaction into another product, such that, for example, the tolyltriazole or benzotriazole can no longer be separated from the other products through a distillation or other process is excluded from these orders.

Tolyltriazole has the Chemical Abstracts Service (CAS) registry number 299385–43–1. Tolyltriazole is classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2933.99.8220.

Sodium Tolyltriazole has the CAS registry number 64665–57–2 and is classified under HTSUS subheading 2933.99.8290.

Benzotriazole has the CAS registry number 95–14–7 and is classified under HTSUS subheading 2933.99.8210.

Sodium Benzotriazole has the CAS registry number 15217–42–2. Sodium Benzotriazole is classified under HTSUS subheading 2933.99.8290.

Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

[FR Doc. 2021–05742 Filed 3–18–21; 8:45 am]

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[8] Commerce found Nantong Yutu Group Co., Ltd. to be a cross-owned affiliate of mandatory respondent Nantong Botao Chemical Co., Ltd. The name of this company was inadvertently omitted from the final determination notice. *See CVD Final Determination* and accompanying Issues and Decision Memorandum. This company was listed in the *CVD Preliminary Determination* and accompanying PDM at 9, and there were no changes which impacted this cross-ownership determination for the final determination.

[9] *See CVD Preliminary Determination.*

# DEPARTMENT OF COMMERCE

## International Trade Administration

**[C–533–900, C–821–830]**

## Granular Polytetrafluoroethylene Resin From India and the Russian Federation: Postponement of Preliminary Determinations in the Countervailing Duty Investigations

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Applicable March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Janae Martin at (202) 482–0238 (India) and George Ayache at (202) 482–2623 (the Russian Federation (Russia)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

## Background

On February 16, 2021, the Department of Commerce (Commerce) initiated countervailing duty (CVD) investigations of imports of granular polytetrafluoroethylene (PTFE) resin from India and Russia.[1] Currently, the preliminary determinations are due no later than April 22, 2021.

## Postponement of Preliminary Determinations

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act

[1] *See Granular Polytetrafluoroethylene Resin from India and the Russian Federation: Initiation of Countervailing Duty Investigations,* 86 FR 10931 (February 23, 2021).

permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) The petitioner [2] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On March 9, 2021, the petitioner submitted a timely request that Commerce postpone the preliminary determinations of the CVD investigations of granular PTFE resin from India and Russia.[3] The petitioner stated that it requests postponement ''to allow Commerce to fully analyze respondents' questionnaire responses, and any other filings such as new subsidy allegations and benchmark factual information, prior to the preliminary determination.'' [4] In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determinations, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determinations to no later than 130 days after the date on which these investigations were initiated, *i.e.,* June 28, 2021.[5] Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: March 15, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2021–05739 Filed 3–18–21; 8:45 am]

**BILLING CODE 3510–DS–P**

[2] The petitioner is Daikin America, Inc.

[3] *See* Petitioner's Letter, ''Granular Polytetrafluoroethylene (PTFE) Resin from India and Russia: Request to Extend Preliminary Determinations,'' dated March 9, 2021.

[4] *Id.*

[5] Postponing the preliminary determination to 130 days after initiation would place the deadline on Saturday, June 26, 2021. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–533–502]**

### Welded Carbon Steel Standard Pipes and Tubes From India: 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 the sole producer and/or exporter subject to this administrative review, made sales of subject merchandise in the United States at less than normal value during the period of review (POR), May 1, 2018, through April 30, 2019.

**DATES:** Applicable March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dmitry Vladimirov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0665.

**SUPPLEMENTARY INFORMATION:**

#### Background

On July 24, 2020, Commerce published the *Preliminary Results* of the 2018–2019 administrative review of the antidumping duty order on welded carbon steel standard pipes and tubes (pipe and tube) from India.[1] The administrative review covers a sole producer and/or exporter of the subject merchandise, Garg Tube Export LLP and its affiliate, Garg Tube Limited (collectively, Garg Tube), constituting a single entity.[2] We invited interested parties to comment on the *Preliminary Results* and received case and rebuttal briefs.[3] On January 7, 2021, Commerce extended the deadline for the final results by 60 days to March 18, 2021.[4] Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

#### Scope of the Order

The merchandise subject to the order is pipe and tube. The pipe and tube subject to the order is currently classifiable under subheadings: 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[5]

#### Analysis of Comments Received

All issues raised by parties in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is in the appendix to this notice. 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 *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

[1] *See Welded Carbon Steel Standard Pipes and Tubes from India: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019,* 85 FR 44860 (July 24, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See Welded Carbon Steel Standard Pipes and Tubes from India: Preliminary Results of Antidumping Duty Administrative Review; 2017–2018,* 84 FR 33916 (July 16, 2019), and accompanying Preliminary Decision Memorandum at 7–8, unchanged in *Welded Carbon Steel Standard Pipes and Tubes from India: Final Results of Antidumping Duty Administrative Review; 2017–2018,* 85 FR 2715 (January 16, 2020) (where we determined to collapse and consider these two companies as one entity).

[3] The domestic interested party (DIP) is Nucor Tubular Products Inc. *See* DIP's Letter, ''Certain Welded Carbon Steel Standard Pipes and Tubes from India: Case Brief and Request to Participate in Hearing,'' dated December 7, 2020; and Garg Tube's Letter, ''Antidumping Duty Review of Certain Welded Carbon Steel Standard Pipes and Tubes from India: Garg Tube's Case Brief,'' dated December 7, 2020; *see also* DIP's Letter, ''Certain Welded Carbon Steel Standard Pipes and Tubes from India: Rebuttal Brief,'' dated December 14, 2020; and Garg Tube's Letter, ''Antidumping Duty Administrative Review of Certain Welded Carbon Steel Standard Pipes and Tubes from India (2018–2019): Garg Tube's Rebuttal Brief,'' dated December 14, 2020.

[4] *See* Memorandum, ''Welded Carbon Steel Standard Pipes and Tubes from India: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated January 7, 2021.

[5] *See* Memorandum, ''Welded Carbon Steel Standard Pipes and Tubes from India: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review; 2018–2019,'' dated concurrently with, and hereby adopted by this notice (Issues and Decision Memorandum).

## Changes Since the Preliminary Results

Based on the comments received, we made changes for these final results which are explained in the Issues and Decision Memorandum.

## Final Results of the Administrative Review

We determine that the following weighted-average dumping margin exists for the period May 1, 2018, through April 30, 2019.

| Producer or exporter | Weighted-average dumping margin (percent) |
|---|---|
| Garg Tube Export LLP and Garg Tube Limited | 13.90 |

## Disclosure

We intend to disclose the calculations performed in connection with these final results to parties in this proceeding within five days after public announcement of the final results, in accordance with 19 CFR 351.224(b).

## Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For Garg Tube, we calculated importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1).[6] Where an importer-specific assessment rate is *de minimis* (*i.e.,* less than 0.5 percent), the entries by that importer will be liquidated without reference to antidumping duties. For entries of subject merchandise during the POR produced by Garg Tube for which it did not know the merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[7]

Consistent with its recent notice,[8] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

## Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of this notice for all shipments of pipe and tube from India entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Garg Tube will be equal to the weighted-average dumping margin established in the final results of the review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a priorcompleted segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 7.08 percent, the all-others rate established in the less-than-fair-value investigation for this proceeding.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

## Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

## Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

## Notification to Interested Parties

We are issuing and publishing these results of administrative review in accordance with sections 751(a) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: March 15, 2020.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

## Appendix

**List of Topics Discussed in the Issues and Decision Memorandum**

I. Summary
II. Background
III. Scope of the Order
IV. Changes Since the Preliminary Results
V. Discussion of the Issues
  Comment 1: Particular Market Situation and Quantifying an Adjustment
  Comment 2: Partial Adverse Facts Available for Non-Cooperative Unaffiliated Suppliers' Costs
VI. Recommendation

[FR Doc. 2021–05740 Filed 3–18–21; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–900]**

### Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Rescission of Review in Part; 2018–2019

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines

[6] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[7] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *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).

[9] *See Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India,* 51 FR 17384 (May 12, 1986).

that diamond sawblades and parts thereof from the People's Republic of China (China) were sold at less than normal value during the period of review (POR) November 1, 2018, through October 31, 2019. Interested parties are invited to comment on these preliminary results of review.

**DATES:** Applicable March 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Bryan Hansen or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3683 and (202) 482–0410, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On January 17, 2020, Commerce initiated the administrative review of the antidumping duty order on diamond sawblades and parts thereof from China.[1] The administrative review covers two mandatory respondents, Chengdu Huifeng New Material Technology Co., Ltd. (Chengdu Huifeng) and Wuhan Wanbang Laser Diamond Tools Co., Ltd. (Wuhan Wanbang).

On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days, thereby tolling the deadline for the preliminary results of review.[2] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days, thereby tolling the deadline for the preliminary results of review until November 19, 2020.[3] On October 19, 2020, Commerce extended the time limit for issuing the preliminary results of this review by 120 days, to no later than March 19, 2021.[4]

## Scope of the Order

The merchandise subject to the antidumping duty order is diamond sawblades and parts thereof, which is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, Commerce included the 6804.21.00.00 HTSUS classification number to the customs case reference file, pursuant to a request by U.S. Customs and Border Protection (CBP). Pursuant to requests by CBP, Commerce included to the customs case reference file the following HTSUS classification numbers: 8202.39.0040 and 8202.39.0070 on January 22, 2015, and 6804.21.0010 and 6804.21.0080 on January 26, 2015.

While the HTSUS numbers are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[5]

## Preliminary Determination of No Shipments

Three companies that received a separate rate in previous segments of the proceeding and are subject to this review reported that they did not have any shipments of subject merchandise during the POR.[6] We requested that CBP report any contrary information.[7] To date, we have not received any contrary information from either CBP in response to our inquiry or any other sources that these companies had any shipments of the subject merchandise to the United States during the POR.[8] Further, consistent with our practice, we find that it is not appropriate to rescind the review with respect to these companies, but rather to complete the review and issue appropriate instructions to CBP based on the final results of review.[9]

## Rescission of Review in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation. The request for an administrative review of Husqvarna (Hebei) Co., Ltd. was withdrawn within 90 days of the date of publication of the *Initiation Notice.*[10] As a result, Commerce is rescinding this review with respect to this company in accordance with 19 CFR 351.213(d)(1).

## Separate Rates

Commerce preliminarily determines that four respondents are eligible to receive separate rates in this review.[11]

## Separate Rate for Eligible Non-Selected Respondents

Commerce preliminarily determines that the respondents not selected for individual examination, the Jiangsu Fengtai Single Entity,[12] and Zhejiang Wanli Tools Group Co., Ltd. (Zhejiang Wanli), are eligible to receive a separate rate in the administrative review.[13] Consistent with our practice, we assigned to the Jiangsu Fengtai Single Entity, and Zhejiang Wanli, as the separate rate for the preliminary results of this review, a simple average of the rate calculated for Chengdu Huifeng and the rate assigned to Wuhan Wanbang based entirely on facts otherwise available with an adverse inference.[14]

## China-Wide Entity

Under Commerce's policy regarding the conditional review of the China-wide entity,[15] the China-wide entity

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 3014 (January 17, 2020).

[2] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

[3] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[4] *See* Memorandum, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review, 2018–2019,'' dated October 19, 2020.

[5] *See* Memorandum, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review; 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* Bosun Tools Co., Ltd.'s Letter, ''Diamond Sawblades from the People's Republic of China Separate Rate Certification,'' dated February 14, 2020; *see also* Danyang Weiwang Tools Manufacturing Co., Ltd.'s Letter, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: Submission of Statement of No Shipments,'' dated February 14, 2020; and Weihai Xiangguang Mechanical Industrial Co., Ltd.'s Letter, ''No Shipment Letter for Weihai Xiangguang Mechanical Industrial Co., Ltd.: Diamond Sawblades and Parts Thereof from the People's Republic of China (Review Period: 11/1/18–10/31/19),'' dated February 14, 2020.

[7] *See* CBP message numbers 0094406, 0094409, and 0094410, dated April 3, 2020 (ACCESS barcodes 3962143–01, 3962145–01, and 3962146–01).

[8] *See* Preliminary Decision Memorandum at 3–4.

[9] *See, e.g., Certain Steel Threaded Rod from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019,* 84 FR 71900 (December 30, 2019).

[10] *See* Diamond Sawblades Manufacturers' Coalition's Letter, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: Request to Withdraw Review of Certain Companies,'' dated February 12, 2020; *see also* Husqvarna (Hebei) Co., Ltd.'s Letter, ''Diamond Sawblades and Parts Thereof from the People's Republic Of China: Withdrawal of Request for Administrative Review,'' dated February 13, 2020.

[11] *See* Preliminary Decision Memorandum at ''Separate Rates'' section.

[12] Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd., Jiangsu Fengtai Tools Co., Ltd., and Jiangsu Fengtai Sawing Industry Co., Ltd., comprise the Jiangsu Fengtai Single Entity. *See Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015,* 82 FR 26912, 26913 (June 12, 2017). We received review requests for Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd., Jiangsu Fengtai Diamond Tools Co., Ltd., and Jiangsu Fengtai Tools Co., Ltd.

[13] For more details, *see* Preliminary Decision Memorandum at 10–11.

[14] *Id.*

[15] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent*

will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, the entity is not under review, and the entity's rate (*i.e.,* 82.05 percent) is not subject to change.[16] Aside from the no-shipment and separate rate companies discussed above, Commerce considers all other companies for which a review was requested (which did not file a separate rate application) to be part of the China-wide entity.[17]

## Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (a)(2) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213. Export price is calculated in accordance with section 772(c) of the Act. Because China is a non-market economy within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.* A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix I to this notice.

## Preliminary Results of Administrative Review

We are assigning the following weighted-average dumping margins to the firms listed below for the period November 1, 2018, through October 31, 2019:

| Exporters | Weighted-average dumping\margin (percent) |
|---|---|
| Chengdu Huifeng New Material Technology Co., Ltd | 0.00 |
| Wuhan Wanbang Laser Diamond Tools Co., Ltd | 82.05 |
| **Review-Specific Average Rate Applicable to the Following Companies:** [18] | |
| Jiangsu Fengtai Single Entity | 41.03 |
| Zhejiang Wanli Tools Group Co., Ltd | 41.03 |

## Disclosure

We intend to disclose calculations performed in these preliminary results to parties within five days after public announcement of the preliminary results.[19]

## Public Comment

Pursuant to 19 CFR 351.309(c)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice.[20] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.[21] Commerce modified certain of its requirements for serving documents containing business proprietary information until further notice.[22] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[23]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. Hearing requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[24]

Unless the deadline is extended, Commerce intends to issue the final results of these reviews, including the results of its analysis of issues raised by parties in their comments, within 120 days after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

## Assessment Rates

Upon issuing the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[25] If a respondent's weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and, where possible, the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[26] Where an importer- (or customer-) specific *ad valorem* rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[27]

*Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[16] *See, e.g., Diamond Sawblades and Parts Thereof from the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 32344, 32345 (June 8, 2015).

[17] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 3014, 3019–20 (January 17, 2020) (''All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below''); *see also* Appendix II of this notice for a list of companies that are subject to this administrative review that are considered to be part of the China-wide entity.

[18] This rate is based on the simple average of the rates for the respondents that were selected for individual review as described in ''Separate Rate for Eligible Non-Selected Respondents,'' above.

[19] *See* 19 CFR 351.224(b).

[20] *See* 19 CFR 351.309(c).

[21] *See* 19 CFR 351.309(d).

[22] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[23] *See* 19 CFR 351.309(c)(2) and (d)(2) and 19 CFR 351.303 (for general filing requirements).

[24] *See* 19 CFR 351.310(c).

[25] *See* 19 CFR 351.212(b)(1).

[26] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[27] *See* 19 CFR 351.106(c)(2).

For entries that were not reported in the U.S. sales databases submitted by exporters individually examined during this review, Commerce will instruct CBP to liquidate such entries at the China-wide rate. If Commerce determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the China-wide rate.[28]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the final results of these reviews for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the subject merchandise exported by the companies listed above that have separate rates, the cash deposit rate will be that established in the final results of review (except, if the rates are zero, *de minimis,* or based entirely on AFA, then the cash deposit to be required will be the simple average of the rates we determine for the final results); (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-wide entity; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

[28] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65695 (October 24, 2011).

**Notification to Importers**

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these PORs. 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 Orders**

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**

Commerce is issuing and publishing the preliminary results of this review in accordance with sections 751(a)(1)(B), 751(a)(3) and 777(i) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: March 15, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

## Appendix I

**List of Topics Discussed in the Preliminary Decision Memorandum**

I. Summary
II. Background
III. Scope of the Order
IV. Preliminary Determination of No Shipments
V. Discussion of the Methodology
VI. Currency Conversion
VII. Recommendation

## Appendix II

**Companies Preliminarily Not Eligible for a Separate Rate and Treated as Part of the China-Wide Entity**

1. ASHINE Diamond Tools Co., Ltd.
2. Danyang City Ou Di Ma Tools Co., Ltd.
3. Danyang Hantronic Import & Export Co., Ltd.
4. Danyang Huachang Diamond Tools Manufacturing Co., Ltd.
5. Danyang Like Tools Manufacturing Co., Ltd.
6. Danyang NYCL Tools Manufacturing Co., Ltd.
7. Danyang Tsunda Diamond Tools Co., Ltd.
8. Guilin Tebon Superhard Material Co., Ltd.
9. Hangzhou Deer King Industrial and Trading Co., Ltd.
10. Hangzhou Kingburg Import & Export Co., Ltd.
11. Hebei XMF Tools Group Co., Ltd.
12. Henan Huanghe Whirlwind Co., Ltd.
13. Henan Huanghe Whirlwind International Co., Ltd.
14. Hong Kong Hao Xin International Group Limited
15. Hubei Changjiang Precision Engineering Materials Technology Co., Ltd.
16. Hubei Sheng Bai Rui Diamond Tools Co., Ltd.
17. Huzhou Gu's Import & Export Co., Ltd.
18. Jiangsu Huachang Diamond Tools Manufacturing Co., Ltd.
19. Jiangsu Inter-China Group Corporation
20. Jiangsu Youhe Tool Manufacturer Co., Ltd.
21. Orient Gain International Limited
22. Pantos Logistics (HK) Company Limited
23. Pujiang Talent Diamond Tools Co., Ltd.
24. Qingdao Hyosung Diamond Tools Co., Ltd.
25. Qingyuan Shangtai Diamond Tools Co., Ltd.
26. Qingdao Shinhan Diamond Industrial Co., Ltd.
27. Quanzhou Zhongzhi Diamond Tool Co., Ltd.
28. Rizhao Hein Saw Co., Ltd.
29. Saint-Gobain Abrasives (Shanghai) Co., Ltd.
30. Shanghai Jingquan Industrial Trade Co., Ltd.
31. Shanghai Starcraft Tools Co., Ltd.
32. Sino Tools Co., Ltd.
33. Wuhan Baiyi Diamond Tools Co., Ltd.
34. Wuhan Sadia Trading Co., Ltd.
35. Wuhan ZhaoHua Technology Co., Ltd.
36. Xiamen ZL Diamond Technology Co., Ltd.
37. ZL Diamond Technology Co., Ltd.
38. ZL Diamond Tools Co., Ltd.

[FR Doc. 2021–05741 Filed 3–18–21; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

### National Voluntary Laboratory Accreditation Program—Proposed Revisions to the Personal Body Armor Laboratory Accreditation Program

**AGENCY:** National Institute of Standards and Technology, Commerce.

**ACTION:** Notice; request for comment.

**SUMMARY:** The Chief of the National Institute of Standards and Technology's (NIST) National Voluntary Laboratory Accreditation Program (NVLAP) may approve modifications to a specific Laboratory Accreditation Program (LAP) when a request to modify the LAP is received. Modifications may include addition of tests, types of tests or standards that are directly relevant to the LAP. NVLAP has received a request

to revise the name of its Personal Body Armor LAP to the Law Enforcement and Corrections Equipment LAP in order to better encompass the scope of this program. NVLAP has also received a request to expand the technology tested under this program to include rifle testing, helmet testing and shield testing. NIST seeks feedback from the public on these proposed revisions.

**DATES:** Comments must be received by 5 p.m. Eastern Time on April 19, 2021.

**ADDRESSES:** Comments on the proposed revisions must be submitted to: Chief, National Voluntary Laboratory Accreditation Program, 100 Bureau Drive, Stop 2140, Gaithersburg, MD 20899–2140 or by sending email to *nvlap@nist.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dana S. Leaman, Chief, NIST/NVLAP, 100 Bureau Drive, Stop 2140, Gaithersburg, MD 20899–2140, Phone: (301) 975–4016 or email: *dana.leaman@nist.gov.* Information regarding NVLAP and the accreditation process can be obtained from *http://www.nist.gov/nvlap.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

NIST administers NVLAP under regulations found in 15 CFR part 285. NVLAP provides an unbiased third-party evaluation and recognition of laboratory performance, as well as expert technical assistance to upgrade that performance, by accrediting calibration and testing laboratories found competent to perform specific calibrations or tests. NVLAP is comprised of a set of LAPs which are established on the basis of requests and demonstrated need. Each LAP includes specific calibration and/or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in the field of calibration, field of testing, product or service. Under NVLAP's Procedures and General Requirements, available at *https://nvlpubs.nist.gov/nistpubs/hb/2020/NIST.HB.150-2020.pdf,* the Chief of NVLAP (Chief) may seek input from interested parties when proposed modifications to a LAP are analyzed.

The NVLAP Personal Body Armor LAP was established in 2006 at the request of the U.S. Department of Justice (DOJ) National Institute of Justice (NIJ) Office of Science and Technology. The LAP was developed to accredit laboratories for body armor testing in support of the NIJ Compliance Testing Program (CTP). Presently, the LAP encompasses accreditation of ballistic-resistant body armor testing, stab-resistant body armor testing, and autoloading pistol testing. Based on the requests for modification to the Personal Body Armor LAP, the Chief has preliminarily determined that revision of the program name to the Law Enforcement and Corrections Equipment LAP is supported by the program stakeholder and the laboratories accredited in the current program. Additionally, the Chief has preliminarily determined that there is also support to expand testing in the program to include rifle testing, helmet testing and shield testing.

## II. Request for Comments

NVLAP solicits comments on whether (a) the additional tests or calibrations, types of tests or calibrations, or standards requested are directly relevant to the LAP; (b) it is feasible and practical to accredit testing or calibration laboratories for the additional tests or calibrations, types of tests or calibrations, or standards; and (c) it is likely that laboratories will seek accreditation for the additional tests or calibrations, types of tests or calibrations, or standards. NVLAP also specifically invites comments on: (a) Whether the proposed change to the name of the laboratory accreditation program will better reflect the testing encompassed under the LAP; and (b) whether the addition of accreditation for rifle testing, helmet testing and shield testing will support the NIJ's CTP as it relates to the performance and safety of equipment for use in law enforcement and corrections applications.

After analyzing the public comments, the Chief shall publish a **Federal Register** notice regarding a decision on whether the LAP will be revised.

**Authority:** 15 U.S.C. 272(b) & (c).

**Kevin A. Kimball,**

*Chief of Staff.*

[FR Doc. 2021–05687 Filed 3–18–21; 8:45 am]

BILLING CODE 3510–13–P

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# DEPARTMENT OF COMMERCE

## National Institute of Standards and Technology

## Advisory Committee on Earthquake Hazards Reduction Meeting

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** National Institute of Standards and Technology (NIST)'s Advisory Committee on Earthquake Hazards Reduction (ACEHR or Committee) will hold a virtual meeting via web conference on Monday, April 12, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Time and Tuesday, April 13, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Time. The primary purpose of this meeting is for the Committee to review the activities of the National Earthquake Hazards Reduction Program (NEHRP) and develop an outline for their 2021 biennial report on the Effectiveness of NEHRP. The agenda may change to accommodate Committee business. The final agenda and any meeting materials will be posted on the NEHRP website at *http://nehrp.gov/.*

**DATES:** The ACEHR will meet on Monday, April 12, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Time and Tuesday, April 13, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Time.

**ADDRESSES:** The meeting will be held virtually via web conference. For instructions on how to participate in the meeting, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Tina Faecke, Management and Program Analyst, NEHRP, Engineering Laboratory, NIST, 100 Bureau Drive, Mail Stop 8604, Gaithersburg, Maryland 20899–8604. Ms. Faecke's email address is *tina.faecke@nist.gov* and her phone number is (240) 477–9841.

**SUPPLEMENTARY INFORMATION:** Authority: 42 U.S.C. 7704(a)(5) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The Committee is composed of 13 members, appointed by the Director of NIST, who were selected for their established records of distinguished service in their professional community, their knowledge of issues affecting NEHRP, and to reflect the wide diversity of technical disciplines, competencies, and communities involved in earthquake hazards reduction. In addition, the Chairperson of the U.S. Geological Survey Scientific Earthquake Studies Advisory Committee serves as an ex-officio member of the Committee.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ACEHR will meet on Monday, April 12, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Time and Tuesday, April 13, 2021, from 1:00 p.m. to 4:00 p.m. Eastern Time. The meeting will be open to the public, and will be held via web conference. Interested members of the public will be able to participate in the meeting from remote locations. The primary purpose of this meeting is for the Committee to review the activities of NEHRP and develop an outline for their 2021 biennial report on the

Effectiveness of NEHRP. The agenda may change to accommodate Committee business. The final agenda and any meeting materials will be posted on the NEHRP website at *http://nehrp.gov/.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's business are invited to request a place on the agenda. Approximately fifteen minutes will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received. Questions from the public will not be considered during this period. All those wishing to speak must submit their request by email to Tina Faecke at *tina.faecke@nist.gov* by 5:00 p.m. Eastern Time, Monday, April 5, 2021. Speakers who wish to expand upon their oral statements, those who wish to speak but cannot be accommodated on the agenda, and those who are unable to attend remotely are invited to electronically submit written statements by email to *tina.faecke@nist.gov.*

Anyone wishing to attend this meeting via web conference must register by 5:00 p.m. Eastern Time, Monday, April 5, 2021. Please submit your full name, email address, and phone number to Tina Faecke at *tina.faecke@nist.gov.*

**Kevin A. Kimball,**

*Chief of Staff,*

[FR Doc. 2021–05686 Filed 3–18–21; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA943]**

### Marine Mammals; File No. 25500

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that University of Alaska Museum of the North, 907 Yukon Drive, Fairbanks, AK 99775–6960 (Responsible Party: Link Olson, Ph.D.), has applied in due form for a permit to receive, import, and export marine mammal parts for scientific research.

**DATES:** Written, telefaxed, or email comments must be received on or before April 19, 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. 25500 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. 25500 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 University of Alaska Museum functions as an archive for scientific parts of the regional biota and provides these to researchers in the global scientific community through their loan program for research. The museum is requesting authority to receive, import, and export an unlimited number of parts from up to 600 individual cetaceans and 2,000 individual pinnipeds of each species, excluding walrus, annually. 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: March 16, 2021.

**Amy Sloan,**

*Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2021–05750 Filed 3–18–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA953]**

### Pacific Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Pacific Fishery Management Council (Pacific Council) and its advisory entities will hold online public meetings.

**DATES:** The Pacific Council and its advisory entities will meet online April 6–9 and 12–15, 2021, noting there will be no meetings Saturday, April 10 and Sunday, April 11, 2021. The Pacific Council meeting will begin on Thursday, April 8, 2021 at 8 a.m. Pacific Time (PT), reconvening at 8 a.m. Friday, April 9 and Monday, April 12, each day through Thursday, April 15, 2021. All meetings are open to the public, except a Closed Session will be held from 8 a.m. to 9 a.m., Thursday, April 8, to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

**ADDRESSES:** Meetings of the Pacific Council and its advisory entities will be webinar only.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220. Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

**FOR FURTHER INFORMATION CONTACT:** Mr. Chuck Tracy, Executive Director; telephone: 503–820–2415 or 866–806–7204 toll-free; or access the Pacific Council website, *www.pcouncil.org* for the proposed agenda and meeting briefing materials.

**SUPPLEMENTARY INFORMATION:** The April 6–9 and 12–15, 2021 meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 9 a.m. PT Thursday, April 8, 2021 and continue at 8 a.m. Friday,

April 9, and Monday, April 12 daily through Thursday, April 15. No meetings are scheduled for Saturday, April 10 through Sunday, April 11, 2021. Broadcasts end when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion for the public is listen-only except that an opportunity for oral public comment will be provided prior to Council Action on each agenda item. You can attend the webinar online using a computer, tablet, or smart phone, using the webinar application. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). It is recommended that you use a computer headset to listen to the meeting, but you may use your telephone for the audio-only portion of the meeting.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, and advisory entity meeting times, are described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance April 2021 briefing materials and posted on the Pacific Council website at *www.pcouncil.org* no later than Friday, March 26, 2021.

A. Call to Order
  1. Opening Remarks
  2. Roll Call
  3. Executive Director's Report
  4. Approve Agenda
B. Open Comment Period
  1. Comments on Non-Agenda Items
C. Habitat Issues
  1. Current Habitat Issues
D. Salmon Management
  1. Tentative Adoption of 2021 Management Measures for Analysis
  2. Methodology Review Preliminary Topic Selection
  3. Clarify Council Direction on 2021 Management Measures
  4. Southern Oregon/Northern California Coast Coho Endangered Species Act (ESA) Consultation
  5. Further Direction for 2021 Management Alternatives
  6. 2021 Management Measures—Final Action
E. Coastal Pelagic Species Management
  1. National Marine Fisheries Service Report
  2 Exempted Fishing Permits (EFPs) for 2021–2022—Final Action
  3. Review of Essential Fish Habitat
  4. Pacific Sardine Assessment, Harvest Specifications, and Management Measures—Final Action
F. Groundfish Management
  1. National Marine Fisheries Service Report
  2 Humpback Whale Endangered Species Act (ESA) Consultation
  3. Scoping of Prioritized Non-trawl Sector Area Management Measures
  4. Sablefish Gear Switching—Identify the Gear Switching Level to Use in Developing Alternatives
  5. Cost Recovery Report and Final Regulations
  6. Inseason Adjustments for 2021—Final Action
  7. Implementation of the 2021 Pacific Whiting Fishery Under the U.S./Canada Agreement
G. Halibut Management
  1. Incidental Catch Limits for 2021 Salmon Troll Fishery—Final Action
H. Administrative Matters
  1. Research and Data Needs Update
  2. Update on Executive Order 13921
  3. Legislative Matters
  4. Membership Appointments and Council Operating Procedures
  5. Future Council Meeting Agenda and Workload Planning

**Advisory Body Agendas**

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council website *www.pcouncil.org* no later than Friday, March 26, 2021.

**Schedule of Ancillary Meetings**

*Day 1—Tuesday, April 6, 2021*

Coastal Pelagic Species Advisory Subpanel—8 a.m.
Coastal Pelagic Species Management Team—8 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Habitat Committee—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Scientific and Statistical Committee—8 a.m.
Model Evaluation Workgroup—1 p.m.

*Day 2—Wednesday, April 7, 2021*

Coastal Pelagic Species Advisory Subpanel—8 a.m.
Coastal Pelagic Species Management Team—8 a.m.
Enforcement Consultants—8 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Habitat Committee—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Scientific and Statistical Committee—8 a.m.
Legislative Committee—10 a.m.

*Day 3—Thursday, April 8, 2021*

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Coastal Pelagic Species Advisory Subpanel—8 a.m.
Coastal Pelagic Species Management Team—8 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Highly Migrator Species Advisory Subpanel—8 a.m.
Highly Migratory Species Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Enforcement Consultants—As Necessary

*Day 4—Friday, April 9, 2021*

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Coastal Pelagic Species Advisory Subpanel—8 a.m.
Coastal Pelagic Species Management Team—8 a.m.
Ecosystem Advisory Subpanel—8 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Enforcement Consultants—As Necessary

* No Meetings Scheduled for Saturday, April 10 through Sunday, April 11, 2021

*Day 5—Monday, April 12, 2021*

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Enforcement Consultants—As Necessary

*Day 6—Tuesday, April 13, 2021*

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Enforcement Consultants—As Necessary

*Day 7—Wednesday, April 14, 2021*

California State Delegation—7 a.m.

Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Enforcement Consultants—As Necessary

*Day 8—Thursday, April 15, 2021*

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.

Although non-emergency issues not contained in this agenda may come before the Pacific Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Pacific Council's intent to take final action to address the emergency.

**Special Accommodations**

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at 503–820–2412 at least ten business days prior to the meeting date.

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

Dated: March 16, 2021.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021–05751 Filed 3–18–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA925]**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council.

**DATES:** The meetings will be held Tuesday, April 6, 2021, from 9 a.m. to 4 p.m.; Wednesday, April 7, 2021, from 9 a.m. to 4 p.m.; and Thursday, April 8, 2021 from 9 a.m. to 1 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** This meeting will be conducted entirely by webinar. Webinar registration details will be available on the Council's website at *https://www.mafmc.org/briefing/april-2021.*

*Council address:* Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

**SUPPLEMENTARY INFORMATION:** The following items are on the agenda; though agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

**Tuesday, April 6, 2021**

*Ecosystem Approach to Fisheries Management (EAFM) Updates*

Updates on summer flounder recreational discard management strategy evaluation and other EAFM related activities

*Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment (Final Action)*

Review public comments, AP recommendations, and FMAT input
Consider final action

**Wednesday, April 7, 2021**

*Blueline Tilefish Specifications*

Develop and approve 2022–2024 blueline tilefish specifications

*Golden Tilefish Multi-Year Specifications Framework*

Meeting 1

*Listening Session on President Biden's Executive Order on Tackling the Climate Crisis at Home and Abroad*

Presentation and discussion

*2021 Mid-Atlantic State of the Ecosystem Report and EAFM Risk Assessment*

Review and provide feedback for future reports

*East Coast Climate Change Scenario Planning Initiative*

Update on NRCC discussions
Review plan for scenario planning process

**Thursday, April 8, 2021**

*Northeast Fisheries Science Center Climate Science Presentation*

Presentation on climate science underway at the Northeast Fisheries Science Center

*Business Session*

Committee Reports (SSC and Research Steering); Executive Director's Report (approve revised NTAP charter); Organization Reports; and Liaison Reports

*Continuing and New Business*

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c).

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Collins, (302) 526–5253, at least 5 days prior to the meeting date.

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

Dated: March 16, 2021.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021–05745 Filed 3–18–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Public Meeting of the National Sea Grant Advisory Board

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Office of Oceanic and Atmospheric Research (OAR), Department of Commerce (DOC).

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Sea Grant Advisory Board (Board), a Federal Advisory Committee. Board members will discuss and provide advice on the National Sea Grant College Program (Sea Grant) in the areas of program

evaluation, strategic planning, education and extension, science and technology programs, and other matters as described in the agenda found on the Sea Grant website. For more information on this Federal Advisory Committee please visit the Federal Advisory Committee database: *https://www.facadatabase.gov/FACA/FACAPublicPage.*

**DATES:** The announced meeting is scheduled for Tuesday April 13 through Thursday April 15, 2021—from 1:00 p.m.—5:00 p.m. Eastern Time. The Board will attend their annual ethics briefing on April 13 from 12:00—1:00 p.m. ET., and their business meeting on April 14, from 12:00–1:00 p.m. ET. These meetings are not a part of the public meetings and are only open to the National Sea Grant Advisory Board members.

**ADDRESSES:** The meeting will be held virtually only. For more information and for virtual access see below in the **FOR FURTHER INFORMATION CONTACT** section.

*Status:* The meeting will be open to public participation with a 15-minute public comment period on Thursday, April 15 from 2:15 p.m.—2:30 p.m. Eastern Time. (Check agenda using the link in the Matters to be Considered section to confirm time.) The Board expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by Ms. Donna Brown by Monday, April 5, 2021 to provide sufficient time for Board review. Written comments received after the deadline will be distributed to the Board, but may not be reviewed prior to the meeting date.

**FOR FURTHER INFORMATION CONTACT:** For any questions concerning the meeting, please contact Ms. Donna Brown, National Sea Grant College Program (Email: *oar.sg-feedback@noaa.gov;* Phone: (301) 734–1088). To attend via webinar, please R.S.V.P to Donna Brown (contact information above) by Monday, April 12, 2021.

*Special Accommodations:* The Board meeting is virtually accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Donna Brown by Monday, April 5, 2021.

**SUPPLEMENTARY INFORMATION:** The Board, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Pub. L. 94–461, 33 U.S.C. 1128). The Board advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice.

*Matters to be Considered:* Board members will discuss and vote on three decisional matters—findings and recommendations from the Information Services and Publication Review Sub-Committee, Committee membership for Guam Sea Grant Institutional Program status review and Committee membership for the 40% Competitive Research and Education charge. *http://seagrant.noaa.gov/WhoWeAre/Leadership/NationalSeaGrantAdvisoryBoard/UpcomingAdvisoryBoardMeetings.aspx*

Dated: March 2, 2021.

**David Holst,**

*Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 2021–05749 Filed 3–18–21; 8:45 am]

**BILLING CODE 3510–KA–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA933]**

### South Atlantic Fishery Management Council (Council)—Public Meetings

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

**ACTION:** Notice of the South Atlantic Fishery Management Council's (Council) Mackerel Cobia Advisory Panel (AP).

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a meeting of its Mackerel Cobia AP on April 6, 2021.

**DATES:** The meeting will be held via webinar on April 6, 2021, from 1 p.m. until 5:30 p.m.

**ADDRESSES:** *Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

*Meeting Address:* The meeting will be held via webinar. The webinar is open to members of the public. Registration is required. Webinar registration, an online public comment form, and briefing book materials will be available two weeks prior to the meeting at*: http://safmc.net/safmc-meetings/current-advisory-panel-meetings/.*

**FOR FURTHER INFORMATION CONTACT:** Christina Wiegand, Fishery Social Scientist, SAFMC; phone 843/571–4366 or toll free 866/SAFMC–10; FAX 843/769–4520; email: *kim.iverson@safmc.net.*

**SUPPLEMENTARY INFORMATION:** The Mackerel Cobia AP will meet via webinar. The AP will discuss Coastal Migratory Pelagics (CMP) Amendment 34 addressing updates to catch levels and allocations for Atlantic king mackerel and proposed modifications to management measures and CMP Amendment 32 addressing updates to catch levels and allocations for Gulf cobia and proposed modifications to management measures. AP members will also update the fishery performance reports for CMP species, including discussion on the effect of coronavirus. AP members will receive an update on recent Council discussion regarding the structure of the AP and possible collaboration with the Atlantic States Marine Fisheries Commission. The AP will provide recommendations for Council consideration as appropriate.

### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) five (5) days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

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

Dated: March 16, 2021.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021–05752 Filed 3–18–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA927]**

### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of web conference. Meetings of the North Pacific Fishery Management Council and its advisory committees.

**SUMMARY:** The North Pacific Fishery Management Council (Council) and its advisory committees will meet from April 5, 2021, through April 17, 2021.

**DATES:** The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday, April 5, 2021, and continue through Friday, April 9, 2021. The Council's Advisory Panel (AP) will begin at 8 a.m. on Tuesday, April 6, 2021, and continue through Saturday, April 10, 2021. The Council's Executive Committee will be held on Friday, April 9, 2021, from 9 a.m. to 11 a.m. The Council will meet on Monday, April 12, 2021, through Saturday, April 17, 2021. All times listed are Alaska Time.

**ADDRESSES:** The meetings will be by webconference. Join online through the links at *https://www.npfmc.org/upcoming-council-meetings.*

*Council address:* North Pacific Fishery Management Council, 1007 W 3rd Ave, Anchorage, Alaska 99501–2252; telephone (907) 271–2809. Instructions for attending the meeting via web conference are given under Connection Information below.

**FOR FURTHER INFORMATION CONTACT:** Diana Evans, Council staff; telephone (907) 271–2809; email: *diana.evans@noaa.gov.* For technical support, please contact our administrative staff, email: *npfmc.admin@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Agenda

*Monday, April 5, 2021, Through Friday, April 9, 2021*

The SSC agenda will include the following issues:

(1) BSAI Halibut ABM—Initial Review
(2) Scallops—SAFE report, ABC/OFL, Plan Team Report
(3) Salmon Bycatch—Chinook/chum genetics reports
(4) Economic Data Reports—Workshop report, SSPT report
(5) Research Priorities—Set 3-year priorities
(6) AFSC Community Report
(7) Seabird Bycatch Report
(8) Planning for 2022 EFH review

The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/1944* prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066; July 19, 2013). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

*Friday, April 9, 2021*

The Executive Committee will meet in executive session to discuss administrative matters.

*Tuesday, April 6, 2021, Through Saturday, April 10, 2021*

The Advisory Panel agenda will include the following issues:

(1) GOA Sablefish Pots 3-year review, IFQ committee report
(2) IFQ Access Opportunities—expanded discussion paper, IFQ committee report
(3) RQE Funding Mechanism—Discussion paper
(4) IFQ Committee Report
(5) Scallops—SAFE report, ABC/OFL, Plan Team Report
(6) BSAI Halibut ABM—Initial Review
(7) Salmon—Chinook/chum genetics reports
(8) Economic Data Reports—Workshop report, SSPT report, Revise alternatives
(9) Staff Tasking

*Monday, April 12, 2021, Through Saturday, April 17, 2021*

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

(1) All B Reports (Executive Director, NMFS Management, NOAA GC, ADF&G, USCG, USFWS, US Navy, NIOSH, Cooperative reports, AP, SSC reports)
(2) GOA Sablefish Pots 3-year review, IFQ committee report
(3) IFQ Access Opportunities—expanded discussion paper, IFQ committee report
(4) RQE Funding Mechanism—Discussion paper
(5) IFQ Committee Report
(6) Scallops—SAFE report, ABC/OFL, Plan Team Report
(7) BSAI Halibut ABM—Initial Review
(8) Salmon Bycatch (a) Chinook/chum genetics reports (b) Pollock IPA report
(9) Economic Data Reports—Workshop report, SSPT report, Revise Alternatives
(10) Research Priorities
(11) Staff Tasking

## Connection Information

You can attend the meeting online using a computer, tablet, or smartphone; or by telephone only. Connection information will be posted online at: *https://www.npfmc.org/upcoming-council-meetings.* For technical support, please contact our administrative staff, email: *npfmc.admin@noaa.gov.*

## Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at *https://www.npfmc.org/upcoming-council-meetings.* The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The deadline for written comments is April 2, 2021, at 5 p.m. Alaska Time.

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

Dated: March 16, 2021.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021–05765 Filed 3–18–21; 8:45 am]

BILLING CODE 3510–22–P

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# DEPARTMENT OF COMMERCE

## National Telecommunications and Information Administration

## Broadband Grant Programs Webinar Series

**AGENCY:** National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice of open meetings—NTIA broadband grant programs webinars.

**SUMMARY:** The National Telecommunications and Information Administration (NTIA) will host a webinar series in April through July 2021 in connection with the three new broadband grant programs authorized and funded by the Consolidated Appropriations Act, 2021: The Broadband Infrastructure Program, the Tribal Broadband Connectivity Program, and the Connecting Minority Communities Program. The webinars are designed to help prospective applicants understand the grant programs and to assist applicants to prepare high quality grant applications.

**DATES:** NTIA will hold the webinars based on the following schedule:

1. Broadband Infrastructure Program: The second Wednesday and Thursday of each month, 2:30–4:00 p.m. Eastern Time (ET), starting April 14, 2021.
2. Tribal Broadband Connectivity Program: The third Wednesday and Thursday of each month, 2:30–4:00 p.m. ET, starting April 21, 2021.
3. Connecting Minority Communities: The fourth Wednesday and Thursday of each month, 2:30–4:00 p.m. ET, starting April 28, 2021.

**ADDRESSES:** These are virtual meetings. NTIA will post the registration information on its BroadbandUSA website, *https://broadbandusa.ntia.doc.gov,* under Events.

**FOR FURTHER INFORMATION CONTACT:** Christopher Holt, National Telecommunications and Information Administration, U.S. Department of Commerce, Room 4872, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4884; email: *BroadbandUSAwebinars@ntia.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002; email *press@ntia.gov.*

**SUPPLEMENTARY INFORMATION:** Division N, Title IX—Broadband internet Access Service, of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) authorized and funded three new broadband grant programs to be administered by NTIA: The Broadband Infrastructure Program, the Tribal Broadband Connectivity Program, and the Connecting Minority Community Program. The Broadband Infrastructure Program is a $300 million broadband deployment program directed to partnerships between a state, or one or more political subdivisions of a state, and providers of fixed broadband service to support broadband infrastructure deployment to areas lacking broadband, especially rural areas. The Tribal Broadband Connectivity Program is a $1 billion program directed to tribal governments to be used for broadband deployment on tribal lands, as well as for telehealth, distance learning, broadband affordability, and digital inclusion. The Connecting Minority Communities Program is a $285 million pilot grant program targeting Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority Serving Institutions, and their anchor communities for the purchase of broadband internet access service, or any eligible equipment, or to hire and train information technology personnel. During April through July 2021, NTIA will host a webinar series in connection with each of these broadband grant programs to help prospective applicants understand the grant programs and to assist them as they prepare high quality grant applications. Details on specific webinars, their contents, and webinar registration information will be posted on the BroadbandUSA website, *https://broadbandusa.ntia.doc.gov,* under Events.

These webinars are subject to change. Webinar time changes will be posted on the BroadbandUSA website, *https://broadbandusa.ntia.doc.gov,* under Events. Any webinar cancellation will also be posted on the same website. Any date change in a scheduled webinar will be provided in a notice in the **Federal Register**.

The presentation and recording of each webinar will be posted on the BroadbandUSA website at *https://broadbandusa.ntia.doc.gov/* and NTIA's YouTube channel at: *https://www.youtube.com/ntiagov* within 7 days following the live webinar.

The public is invited to participate in these webinars. The webinars are open to the public and press. Pre-registration is required as space is limited to the first 1000 participants. NTIA asks each registrant to provide their first and last name, city, state, zip code, job title, organization and email address for registration purposes.

Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify the NTIA contact listed above at least ten (10) business days before the meeting. General questions and comments are welcome via email to *BroadbandUSAwebinars@ntia.gov.*

Dated: March 16, 2021.

**Kathy Smith,**

*Chief Counsel, National Telecommunications and Information Administration.*

[FR Doc. 2021–05747 Filed 3–18–21; 8:45 am]

BILLING CODE 3510–60–P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and deletions from the Procurement List.

**SUMMARY:** This action adds product(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) and service(s) from the Procurement List previously furnished by such agencies.

**DATES:** *Date added to and deleted from the Procurement List:* April 18, 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:** Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:**

### Additions

On 6/19/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

*Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) proposed for addition to the Procurement List.

*End of Certification*

Accordingly, the following product(s) are added to the Procurement List:

*Product(s)*

*NSN(s)—Product Name(s):*

MR 16500—Glasses, Readers, 1.25 Diopter
MR 16501—Glasses, Readers, 1.50 Diopter
MR 16502—Glasses, Readers, 1.75 Diopter
MR 16503—Glasses, Readers, 2.00 Diopter
MR 16504—Glasses, Readers, 2.50 Diopter
MR 16505—Glasses, Readers, 2.75 Diopter

*Designated Source of Supply:* Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC

*Contracting Activity:* Military Resale-Defense Commissary Agency

### Deletions

On 2/12/2021, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is

published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

*Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

*End of Certification*

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

*Product(s)*

*NSN(s)—Product Name(s):* 5340–00–286–6895—Strap, Webbing, 48″ × 3/4″
*Designated Source of Supply:* Development Workshop, Inc., Idaho Falls, ID
*Contracting Activity:* SOCIAL SECURITY ADMINISTRATION, BALTIMORE, MD

*NSN(s)—Product Name(s):*
MR 1118—Holder, Sponge
MR 13034—Dispenser, Creamer, Plastic
MR 13039—Microwave Popcorn Popper
MR 13065—Microwave Steamer
*Designated Source of Supply:* Cincinnati Association for the Blind, Cincinnati, OH
*Contracting Activity:* Military Resale-Defense Commissary Agency

*NSN(s)—Product Name(s):*
MR 11312—Mug, Travel, Stainless Steel, West Loop 2.0, 20 oz.
MR 11314—Mug, Travel, Stainless Steel, West Loop 2.0, 16 oz.
*Designated Source of Supply:* Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
*Contracting Activity:* Military Resale-Defense Commissary Agency

*NSN(s)—Product Name(s):*
MR 10777—Platters, Christmas, Red, Includes Shipper 20777
MR 10778—Platters, Christmas, Blue, Includes Shipper 20777
*Designated Source of Supply:* Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
*Contracting Activity:* Military Resale-Defense Commissary Agency

*Service(s)*

*Service Type:* Janitorial/Custodial
*Mandatory for:* GSA Depot—Warehouse 6: 2695 N Sherwood Forest Drive, Baton Rouge, LA
*Designated Source of Supply:* Louisiana Industries for the Disabled, Inc., Baton Rouge, LA
*Contracting Activity:* PUBLIC BUILDINGS SERVICE, PBS R7
*Service Type:* Shredding & Destruction of Document & Recycling
*Mandatory for:* US Army Corps of Engineers Middle East District, Winchester VA
*Mandatory for:* US Army Corps of Engineers Records Holding Area (RHA), Winchester VA
*Mandatory for:* US Army Corps of Engineers Transatlantic Division, Winchester VA
*Contracting Activity:* DEPT OF THE ARMY, W31R ENDIS MIDDLE EAST
*Service Type:* Coating of Polypropylene Plastic Bleeding Tubes
*Mandatory for:* USDA, APHIS-National Veterinary Stockpile, Kansas City, MO
*Designated Source of Supply:* JobOne, Independence, MO
*Contracting Activity:* ANIMAL AND PLANT HEALTH INSPECTION SERVICE, USDA APHIS MRPBS

**Michael R. Jurkowski,**

*Deputy Director, Business & PL Operations.*

[FR Doc. 2021–05772 Filed 3–18–21; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletions from the Procurement List.

**SUMMARY:** The Committee is proposing to add product(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) and service(s) previously furnished by such agencies.

**DATES:** Comments must be received on or before: April 18, 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.

### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

*Product(s)*

NSN(s)—Product Name(s):
MR 10788—Super Sifter, Includes Shipper 20788
MR 10792—Twin Juicer, Includes Shipper 20792
MR 10794—Mini Garden Colander, Includes Shipper 20794
*Designated Source of Supply:* Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
*Contracting Activity:* Military Resale-Defense Commissary Agency

### Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

*Product(s)*

NSN(s)—Product Name(s):
7510–01–664–8782—DAYMAX System, 2020 Calendar Pad, Type I
7510–01–664–8817—DAYMAX System, 2020, Calendar Pad, Type II
*Designated y Source of Supply:* Anthony Wayne Rehabilitation Ctr for Handicapped and Blind, Inc., Fort Wayne, IN
*Contracting Activity:* GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

*Service(s)*

*Service Type:* Publication File Maintenance/NEPIS website
*Mandatory for:* Environmental Protection Agency, Cincinnati, OH
*Designated Source of Supply:* Clovernook Center for the Blind and Visually Impaired, Cincinnati, OH
*Contracting Activity:* ENVIRONMENTAL PROTECTION AGENCY, US ENVIRONMENTAL PROTECTION AGENCY
*Service Type:* Administrative/General Support Services
*Mandatory for:* Department of the Army: 5111 Leesburg Pike, Room 538, Falls Church, VA
*Designated Source of Supply:* Columbia Lighthouse for the Blind, Washington, DC
*Contracting Activity:* DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA
*Service Type:* Custodial and Grounds

Maintenance Services
*Mandatory for:* Department of Veterans Affairs, US Veterans Outreach Center, Roanoke, VA
*Designated Source of Supply:* Goodwill Industries of the Valleys, Inc., Roanoke, VA
*Contracting Activity:* VETERANS AFFAIRS, DEPARTMENT OF, 246–NETWORK CONTRACTING OFFICE 6

*Service Type:* Laundry Service
*Mandatory for:* Department of Veterans Affairs, VA Medical Center, Iowa City, IA
*Designated Source of Supply:* Genesis Development, Jefferson, IA
*Contracting Activity:* VETERANS AFFAIRS, DEPARTMENT OF, 636–NEBRASKA WESTERN–IOWA

**Michael R. Jurkowski,**

*Deputy Director, Business & PL Operations.*

[FR Doc. 2021–05777 Filed 3–18–21; 8:45 am]

**BILLING CODE 6353–01–P**

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for Employers of National Service Enrollment Form and Survey

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice of Information Collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Corporation for National and Community Service (CNCS, operating as AmeriCorps) is proposing to renew an information collection.

**DATES:** Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by May 18, 2021.

**ADDRESSES:** You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: AmeriCorps, Attention Sharron Walker-Tendai, 250 E Street SW, Washington, DC, 20525.

(2) By hand delivery or by courier to the AmeriCorps mailroom at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except federal holidays.

(3) Electronically through *www.regulations.gov.*

Comments submitted in response to this notice may be made available to the public through regulations.gov. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

**FOR FURTHER INFORMATION CONTACT:** Sharron Walker-Tendai, 202–606–3904, or by email at *stendai@cns.gov.*

**SUPPLEMENTARY INFORMATION:** *Title of Collection:* Employers of National Service Enrollment Form and Survey.

*OMB Control Number:* 3045–0175.

Type of Review: Renewal.

*Respondents/Affected Public:* Businesses and Organizations OR State, Local or Tribal Governments.

*Total Estimated Number of Annual Responses:* 75.

*Total Estimated Number of Annual Burden Hours:* 100.

*Abstract:* This is a request to renew the Employers of National Service Enrollment Form and Survey. Organizations from all sectors either seeking to become or already established Employers of National Service will be filling out these forms, including businesses, nonprofits, institutions of higher education, school districts, state/local governments, and federal agencies. The key purpose of the enrollment form is to document what the organization is committing to doing as an Employer of National Service and provide contact information to AmeriCorps. The information gathered on the enrollment form will also allow AmeriCorps to display the organization's information accurately online as a resource for job seekers. It will also enable AmeriCorps to speak to the diversity within the program's membership, both for internal planning and external audience use. The purpose of the survey form is to track what actions an employer has taken in the past year, gather stories of success or impact, collect quantitative hiring data relating to AmeriCorps and Peace Corps alumni, and provide organizations with an opportunity to update their contact and location data. The information will be collected electronically via our website. AmeriCorps also seeks to continue using the currently approved information collection until the revised information collection is approved by OMB. The currently approved information collection is due to expire on 7/31/2022.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on *regulations.gov.*

Dated: March 16, 2021.

**Erin Dahlin,**

*Chief of Program Operations.*

[FR Doc. 2021–05758 Filed 3–18–21; 8:45 am]

**BILLING CODE 6050–28–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**[Docket DARS–2021–0004; OMB Control Number 0704–0533]**

### Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; DFARS Part 249, Termination of Contracts, and a Related Clause at DFARS 252.249–7002, Notification of Anticipated Contract Termination or Reduction

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Notice and request for comments regarding a proposed extension of an approved information collection requirement.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through June 30, 2021. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

**DATES:** DoD will consider all comments received by May 18, 2021.

**ADDRESSES:** You may submit comments, identified by OMB Control Number 0704–0533, using any of the following methods:

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

○ *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0533 in the subject line of the message.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Kimberly Ziegler, OUSD(A&S)DPC/DARS, 3060 Defense Pentagon, Room 3B938, Washington, DC 20301–3060.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kimberly Ziegler, 571–372–6095.

**SUPPLEMENTARY INFORMATION:**

*Title and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Part 249, Termination of Contracts, and a Related Clause at DFARS 252.249–7002, Notification of Anticipated Contract termination or Reduction; OMB Control Number 0704–0533.

*Type of Request:* Extension.

*Affected Public:* Businesses or other for-profit and not-for profit institutions.

*Respondent's Obligation:* Required to obtain or retain benefits.

*Respondents:* 42.

*Responses per Respondent:* 6.19, approximately.

*Annual Responses:* 260.

*Hours per response:* 0.74, approximately.

*Estimated Hours:* 193.

*Reporting Frequency:* On occasion.

*Needs and Uses:* Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.249–7002, Notification of Anticipated Contract Termination or Reduction, is used in all contracts under a major defense program. This clause requires contractors, within 60 days after receipt of notice from the contracting officer of an anticipated termination or substantial reduction of a contract, to provide notice of the anticipated termination or substantial reduction to first-tier subcontractors with a subcontract valued at $700,000 or more. The clause also requires flowdown of the notice requirement to lower-tier subcontractors with a subcontract value at $150,000 or more. The purpose of this requirement is to help establish benefit eligibility under the Workforce Innovation and Opportunity Act (29 U.S.C. Chapter 32) for employees of DoD contractors and subcontractors adversely affected by contract termination or substantial reductions under major defense programs.

**Jennifer D. Johnson,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

[FR Doc. 2021–05549 Filed 3–18–21; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2021–SCC–0041]**

### Agency Information Collection Activities; Comment Request; Safer Schools and Campuses Best Practices Clearinghouse

**AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of new information collection.

**DATES:** The Department requested emergency processing from OMB for this information collection request by March 15, 2021; and therefore, the regular clearance process is hereby being initiated to provide the public with the opportunity to comment under the full comment period. Interested persons are invited to submit comments on or before May 18, 2021.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0041. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 208D, Washington, DC 20202–8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Victoria Hammer, 202–260–1438.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C.

3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Safer Schools and Campuses Best Practices Clearinghouse.

*OMB Control Number:* 1810–NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments *Total Estimated Number of Annual Responses:* 300.

*Total Estimated Number of Annual Burden Hours:* 450.

*Abstract:* On January 21, 2021 the President issued Executive Order (E.O.) 14000 to assist members of the educational community in each State in safely reopening schools for face-to-face instruction and ensuring schools remain open. E.O. 14000 directs the Department to make widely available and easily accessible a variety of resources from the field and Federal agencies and technical assistance to support their dissemination and use. The hub for these resources will be the Clearinghouse described in E.O. 14000. The Department's Office of Elementary and Secondary Education (OESE) will lead development and implementation of the Clearinghouse in partnership with other ED offices and relevant Federal agencies. At the heart of the Clearinghouse will be the lessons learned and best practices collected from schools, districts, States, and institutions of higher education from across the country.

*Additional information:* It will address three major topics related to operating safely during the COVID–19 pandemic:

- Safe and Healthy Environments: School and campus approaches to implementing the Centers for Disease Control and Prevention's (CDC) recommended mitigation strategies and preparing for and sustaining in-person operations safely. This includes recommendations across all grade and age levels of students served, with focus both on reopening buildings for the first time as well as keeping them open safely.
- Providing Supports to Students: School and campus strategies to meet student social, emotional, mental health, academic, financial, and other needs, including access to food and other basic needs. This includes a specific focus on the most vulnerable learners and ensuring that resources provided by schools and campuses will be able to connect with and meet the needs of those disconnected from learning.
- Teacher, Faculty, and Staff Well-Being, Professional Development, and Supports: School and campus strategies to address the social, emotional, health, and other needs of teachers, faculty, and staff.

In order to quickly categorize, review, and approve submissions for inclusion in the Clearinghouse, the Department would like to request that voluntary submissions include the following information: (1) Contact information; (2) Topic (*e.g.,* safe and healthy environments; providing supports for students; teacher, faculty, and staff well-being, professional development, and supports); (3) Target audience (*e.g.,* early childhood, PreK–12, postsecondary); (4) A short description (two to three sentences); (5) What makes it a lesson learned or best practice (*e.g.,* it is based on local data regarding number of cases of COVID in the community, State or Federal guidance, research), including a summary of the impact and any evidence of positive outcomes and clarification of the type of setting the practice has been used in (*e.g.,* rural/urban/suburban, public/private/proprietary, 2-year or 4-year higher education institution, Historically Black College or University/Tribally Controlled College or University/Minority Serving Institution; other educational settings such as correctional facilities); and (6) Whether there is a focus on racial equity and/or another equity focus, such as a focus on historically underserved populations including students with disabilities; English learners; students from low-income backgrounds; first-generation college students; students experiencing homelessness; students in or formerly in foster care; Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual (LGBTQIA) students; undocumented students; student veterans and military-connected students; student parents; and international students.

Dated: March 15, 2021.

**Kate Mullan,**

*PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2021–05676 Filed 3–18–21; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

**[Case Number 2020–009; EERE–2020–BT–WAV–0025]**

## Energy Conservation Program: Decision and Order Granting a Waiver to Heat Transfer Products Group from the Department of Energy Walk-in Coolers and Walk-In Freezers Test Procedure

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

**ACTION:** Notification of decision and order.

**SUMMARY:** The U.S. Department of Energy (''DOE'') gives notification of a Decision and Order (Case Number 2020–009) that grants to Heat Transfer Products Group (''HTPG'') a waiver from specified portions of the DOE test procedure for determining the energy efficiency of specified carbon dioxide (''CO2'') direct expansion unit coolers. Under the Decision and Order, HTPG is required to test and rate the specified basic models of its CO2 direct expansion unit coolers in accordance with the alternate test procedure set forth in the Decision and Order.

**DATES:** The Decision and Order is effective on March 19, 2021. The Decision and Order will terminate upon the compliance date of any future amendment to the test procedure for walk-in refrigeration systems located at title 10 of the Code of Federal Regulations (''CFR''), part 431, subpart R, appendix C that addresses the issues presented in this waiver. At such time, HTPG must use the relevant test procedure for these CO2 direct expansion unit coolers for any testing to demonstrate compliance with the applicable standards, and any other representations of energy use.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *AS_Waiver_Requests@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with § 431.401(f)(2) of Title 10 of the Code of Federal Regulations (10 CFR 431.401(f)(2)), DOE gives notification of the issuance of its Decision and Order as set forth below. The Decision and Order grants HTPG a waiver from the applicable test procedure at 10 CFR part 431, subpart R, appendix C for specified basic models of CO2 direct expansion unit coolers, and provides that HTPG must test and rate such CO2 direct expansion unit coolers using the alternate test procedure specified in the Decision and Order. HTPG's representations concerning the energy efficiency of the specified basic models must be based on testing according to the provisions and restrictions in the alternate test procedure set forth in the Decision and Order, and the representations must fairly disclose the test results. Distributors, retailers, and private labelers are held to the same requirements when making representations regarding the energy efficiency of this equipment. (42 U.S.C. 6314(d))

Consistent with 10 CFR 431.401(j), not later than May 18, 2021, any manufacturer currently distributing in commerce in the United States CO2 direct expansion unit coolers employing a technology or characteristic that results in the same need for a waiver from the applicable test procedure must submit a petition for waiver. Manufacturers not currently distributing such products/equipment in commerce in the United States must petition for and be granted a waiver prior to the distribution in commerce of CO2 direct expansion unit coolers in the United States. 10 CFR 431.401(j). Manufacturers may also submit a request for interim waiver pursuant to the requirements of 10 CFR 431.401.

**Case # 2020–009**

**Decision and Order**

## I. Background and Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes the U.S. Department of Energy (''DOE'') to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[2] of EPCA established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency for certain types of industrial equipment. This equipment includes walk-in cooler and walk-in freezer (collectively, ''walk-in'') refrigeration systems, the focus of this document. (42 U.S.C. 6311(1)(G))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(a); 42 U.S.C. 6295(s)), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(a); 42 U.S.C. 6295(s))

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use or estimated annual operating cost of covered equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C.6314(a)(2)) The test procedure for walk-in refrigeration systems is set forth in the Code of Federal Regulations (''CFR'') at 10 CFR part 431, subpart R, appendix C, *Uniform Test Method for the Measurement of Net Capacity and AWEF of Walk-In Cooler and Walk-In Freezer Refrigeration Systems* (''Appendix C'').

Any interested person may submit a petition for waiver from DOE's test procedure requirements. 10 CFR 431.401(a)(1). DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model(s) for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedures evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 431.401(f)(2). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. *Id.*

As soon as practicable after the granting of any waiver, DOE will publish in the **Federal Register** a notice of proposed rulemaking to amend its regulations so as to eliminate any need for the continuation of such waiver. 10 CFR 431.401(l). As soon thereafter as practicable, DOE will publish in the **Federal Register** a final rule to that effect. *Id.* When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 431.401(h)((3).

## II. HTPG's Petition for Waiver: Assertions and Determinations

By letter dated July 6, 2020, HTPG filed a petition for waiver and a petition for interim waiver from the DOE test procedure applicable to CO2 direct expansion unit coolers set forth in Appendix C. HTPG claimed that the test conditions described in the Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') Standard 1250–2009, Standard for Performance Rating of Walk-In Coolers and Freezers (''AHRI 1250–2009'') (for walk-in refrigerator unit coolers and freezer unit coolers tested alone), as incorporated by Appendix C with modification, cannot be achieved by the specified basic models and are not consistent with operation of HTPG's CO2 direct expansion unit coolers. HTPG asserted that the prescribed test procedure is not appropriate for HTPG's CO2 direct expansion unit coolers and the test

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated as Part A–1.

conditions are not achievable, since CO2 refrigerant has a critical temperature of 87.8 °F [3] and the current DOE test procedure requires a liquid inlet saturation temperature of 105 °F and liquid inlet subcooling of 9 °F. HTPG suggested that the test conditions should be more consistent with typical operating conditions for a transcritical CO2 booster system.

HTPG's suggested test procedure specifies using modified liquid inlet saturation and liquid inlet subcooling temperatures of 38 °F and 5 °F, respectively, for both walk-in refrigerator unit coolers and walk-in freezer unit coolers. Additionally, because the subject units are used in transcritical CO2 booster systems, HTPG recommended that the calculations in AHRI 1250–2009, section 7.9 should be used to determine the annual walk-in energy factor (''AWEF'') and net capacity for unit coolers matched to parallel rack systems, as required under the DOE test procedure. This section of AHRI 1250–2009 is prescribed by the DOE test procedure for determining AWEF for all unit coolers tested alone (see section 3.3.1 of Appendix C). Finally, HTPG also recommended that AHRI 1250–2009, Table 17, EER for Remote Commercial Refrigerated Display Merchandisers and Storage Cabinets, should be used to determine power consumption of CO2 direct expansion unit cooler systems, as required under the DOE test procedure.

On December 23, 2020, DOE published a notification that announced its receipt of the petition for waiver and granted HTPG an interim waiver. 85 FR 83927 (''Notification of Petition for Waiver''). In the Notification of Petition for Waiver, DOE acknowledged the difference in critical pressure and temperature between traditional refrigerants (such as R404A) and CO2 as used in HTPG's direct expansion unit coolers. 85 FR 83927, 83929. DOE also noted that the transcritical nature of CO2 generally requires a more complex refrigeration cycle design to approach the efficiency of traditional refrigerant cycles during operation in high temperature conditions. *Id.*

In the Notification of Petition for Waiver, DOE also solicited comments from interested parties on all aspects of the petition and the specified alternate test procedure. 85 FR 83927, 83827. DOE received no substantive comments [4] in response to the Notification of Petition for Waiver.

For the reasons explained here and in the Notification of Petition for Waiver, absent a waiver, the basic models identified by HTPG in its petition cannot be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. DOE has reviewed the recommended procedure suggested by HTPG and concludes that it will allow for the accurate measurement of the energy use of the CO2 direct expansion unit coolers, while alleviating the testing issues associated with HTPG's implementation of DOE's applicable walk-in refrigeration systems test procedure for the specified basic models.

Thus, DOE is requiring that HTPG test and rate specified CO2 direct expansion unit cooler basic models according to the alternate test procedure specified in this Decision and Order, which is identical to the procedure provided in the interim waiver.

This Decision and Order applies only to the basic models listed and does not extend to any other basic models. DOE evaluates and grants waivers for only those basic models specifically set out in the petition, not future models that may be manufactured by the petitioner. HTPG may request that DOE extend the scope of this waiver to include additional basic models that employ the same technology as those listed in this waiver. 10 CFR 431.401(g). HTPG may also submit another petition for waiver from the test procedure for additional basic models that employ a different technology and meet the criteria for test procedure waivers. 10 CFR 431.401(a)(1).

DOE notes that it may modify or rescind the waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver is incorrect, or upon a determination that the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, HTPG may request that DOE rescind or modify the waiver if the company discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

## III. Order

After careful consideration of all the material that was submitted by HTPG, HTPG's consumer-facing materials, including websites and product specification sheets for the basic models listed in HTPG's petition, as well as other industry information pertaining to the subject basic models listed by HTPG, it is *ordered* that:

(1) HTPG must, as of the date of publication of this Order in the **Federal Register**, test and rate the following CO2 direct expansion unit cooler basic models with the alternate test procedure as set forth in paragraph (2):

RUSSELL-BRANDED BASIC MODEL NUMBERS

| | | | | | |
|---|---|---|---|---|---|
| RL6A041ADAF | RL6A041DDAF | RL6A052ADAF | RL6A052DDAF | RL6A066ADAF | RL6A066DDAF |
| RL6A073ADAF | RL6A073DDAF | RL6A094ADAF | RL6A094DDAF | RL6A117ADAF | PL6A117DDAF |
| RL6A130ADAF | RL6A130DDAF | RL6A141ADAF | RL6A141DDAF | RL6A161ADAF | RL6A161DDAF |
| RL6A181ADAF | RL6A181DDAF | RL6A195ADAF | RL6A195DDAF | RL6A235ADAF | RL6A235DDAF |
| RL6A260ADAF | RL6A260DDAF | RL6A295ADAF | RL6A295DDAF | RL6A330ADAF | RL6A330DDAF |
| RL6A390ADAF | RL6A390DDAF | RL6E035DDAF | RL6E042DDAF | RL6E049DDAF | RL6E066DDAF |
| RL6E077DDAF | RL6E090DDAF | RL6E105DDAF | RL6E121DDAF | RL6E142DDAF | RL6E162DDAF |
| RL6E182DDAF | RL6E200DDAF | RL6E200EDAF | RL6E244DDAF | RL6E244EDAF | RL6E281DDAF |
| RL6E281EDAF | RL4E027DDAF | RL4E032DDAF | RL4E038DDAF | RL4E051DDAF | RL4E064DDAF |
| RL4E080DDAF | RL4E094DDAF | RL4E110DDAF | RL4E125DDAF | RL4E141DDAF | RL4E155DDAF |
| RL4E155EDAF | RL4E195DDAF | RL4E195EDAF | RL4E230DDAF | RL4E230EDAF | |
| | | | | | |
| RM6A182ADAF | RM6A182DDAF | RM6A182FDAF | RM6A220ADAF | RM6A220DDAF | RM6A220FDAF |
| RM6A276ADAF | RM6A276DDAF | RM6A276FDAF | RM6A370ADAF | RM6A370DDAF | RM6A370FDAF |
| RM6A442ADAF | RM6A442DDAF | RM6A442FDAF | RM6A549ADAF | RM6A549DDAF | RM6A549FDAF |

[3] The test procedure specifies the unit cooler refrigerant inlet condition in terms of a saturation temperature (the temperature at which it completes the condensation process in a condenser) and the subcooling temperature (additional reduction in temperature lower than the specified saturation temperature). For CO2, the critical temperature above which there cannot exist separate liquid and gas phases is below the saturation condition specified in the test procedure—hence, the specified condition cannot be achieved.

[4] One comment was received, but it did not contain any content. The comment only stated the docket number for the notification of petition for waiver and grant of an interim waiver.

RUSSELL-BRANDED BASIC MODEL NUMBERS—Continued

| | | | | | |
|---|---|---|---|---|---|
| RM6A658ADAF | RM6A658DDAF | RM6A658FDAF | RM6E153DDAF | RM6E153EDAF | RM6E153FDAF |
| RM6E153GDAF | RM6E184DDAF | RM6E184EDAF | RM6E184FDAF | RM6E184GDAF | RM6E311DDAF |
| RM6E311EDAF | RM6E311FDAF | RM6E311GDAF | RM6E374DDAF | RM6E374EDAF | RM6E374FDAF |
| RM6E374GDAF | RM6E469EDAF | RM6E469FDAF | RM6E469GDAF | RM6E564EDAF | RM6E564FDAF |
| RM6E564GDAF | RM4E110DDAF | RM4E110EDAF | RM4E110FDAF | RM4E110GDAF | RM4E143DDAF |
| RM4E143EDAF | RM4E143FDAF | RM4E143GDAF | RM4E232DDAF | RM4E232EDAF | RM4E232FDAF |
| RM4E232GDAF | RM4E288DDAF | RM4E288EDAF | RM4E288FDAF | RM4E288GDAF | RM4E336EDAF |
| RM4E336FDAF | RM4E336GDAF | RM4E419EDAF | RM4E419FDAF | RM4E419GDAF | |
| RV6A043ADAF | RV6A043DDAF | RV6A053ADAF | RV6A053DDAF | RV6A085ADAF | RV6A085DDAF |
| RV6A106ADAF | RV6A106DDAF | RV6A129ADAF | RV6A129DDAF | RV6A158ADAF | RV6A158DDAF |
| RV6A176ADAF | RV6A176DDAF | RV6A218ADAF | RV6A218DDAF | RV6A271ADAF | RV6A271DDAF |
| RV6E043DDAF | RV6E053DDAF | RV6E085DDAF | RV6E106DDAF | RV6E129DDAF | RV6E158DDAF |
| RV6E176DDAF | RV6E218DDAF | RV6E271DDAF | | | |
| ASLA25048ADAF | ASLA25048DDAF | ASLA25061ADAF | ASLA25061DDAF | ASLA35073ADAF | ASLA35073DDAF |
| ASLA45098ADAF | ASLA45098DDAF | ASLA55122ADAF | ASLA55122DDAF | ASLA65158ADAF | ASLA65158DDAF |
| ASLE25048DDAF | ASLE25058DDAF | ASLE35070DDAF | ASLE45094DDAF | ASLE55117DDAF | ASLE65150DDAF |
| RE6A041ADAF | RE6A041DDAF | RE6A070ADAF | RE6A070DDAF | RE6A084ADAF | RE6A084DDAF |
| RE6A104ADAF | RE6A104DDAF | RE6A128ADAF | RE6A128DDAF | RE6A141ADAF | RE6A141DDAF |
| RE6A169ADAF | RE6A169DDAF | RE6A204ADAF | RE6A204DDAF | RE6A258ADAF | RE6A258DDAF |
| RE6E037DDAF | RE6E045DDAF | RE6E075DDAF | RE6E089DDAF | RE6E108DDAF | RE6E125DDAF |
| RE6E137DDAF | RE6E182DDAF | RE6E221DDAF | RE6E278DDAF | RE4E037DDAF | RE4E075DDAF |
| RE4E107DDAF | RE4E149DDAF | RE4E186DDAF | RE4E234DDAF | | |
| RH6A031DDAF | RH6A031FDAF | RH6A043DDAF | RH6A043FDAF | RH6A052DDAF | RH6A052FDAF |
| RH6A063DDAF | RH6A063FDAF | RH6A087DDAF | RH6A087FDAF | RH6A105DDAF | RH6A105FDAF |
| RH6A132DDAF | RH6A132FDAF | RH6A156DDAF | RH6A156FDAF | RH6A175DDAF | RH6A175FDAF |
| RH6A209DDAF | RH6A209FDAF | RH6E033DDAF | RH6E033EDAF | RH6E033FDAF | RH6E033GDAF |
| RH6E044DDAF | RH6E044EDAF | RN6E044FDAF | RH6E044GDAF | RH6E053DDAF | RH6E053EDAF |
| RH6E053FDAF | RH6E053GDAF | RH6E066DDAF | RH6E066EDAF | RH6E066FDAF | RH6E066GDAF |
| RH6E089DDAF | RH6E089EDAF | RH6E089FDAF | RH6E089GDAF | RH6E109DDAF | RH6E109EDAF |
| RH6E109FDAF | RH6E109GDAF | RH6E134DDAF | RH6E134EDAF | RH6E134FDAF | RH6E134GDAF |
| RH6E163DDAF | RH6E163EDAF | RH6E163FDAF | RH6E163GDAF | RH6E199DDAF | RH6E199EDAF |
| RH6E199FDAF | RH6E199GDAF | RH4E035DDAF | RH4E035EDAF | RH4E035FDAF | RH4E035GDAF |
| RH4E044DDAF | RH4E044EDAF | RH4E044FDAF | RH4E044GDAF | RH4E071DDAF | RH4E071EDAF |
| RH4E071FDAF | RH4E071GDAF | RH4E087DDAF | RH4E087EDAF | RH4E087FDAF | RH4E087GDAF |
| RH4E107DDAF | RH4E107EDAF | RH4E107FDAF | RH4E107GDAF | RH4E131DDAF | RH4E131EDAF |
| RH4E131FDAF | RH4E131GDAF | RH4E167DDAF | RH4E167EDAF | RH4E167FDAF | RH4E167GDAF |

(2) The alternate test procedure for the HTPG basic models listed in paragraph (1) of this Order is the test procedure for walk-in refrigeration systems prescribed by DOE at 10 CFR part 431, subpart R, appendix C (''Appendix C''), except that the liquid inlet saturation temperature test condition and liquid inlet subcooling temperature test condition shall be modified to 38 °F and 5 °F, respectively, for both walk-in refrigerator unit coolers and walk-in freezer unit coolers, as detailed below. All other requirements of Appendix C and DOE's other relevant regulations remain applicable.

In Appendix C, under section 3.1. *General modifications: Test Conditions and Tolerances,* revise section 3.1.5., to read as follows:

3.1.5. Tables 15 and 16 shall be modified to read as follows:

TABLE 15—REFRIGERATOR UNIT COOLER

| Test description | Unit cooler air entering dry-bulb, °F | Unit cooler air entering relative humidity, % | Saturated suction temp, °F | Liquid inlet saturation temp, °F | Liquid inlet subcooling temp, °F | Compressor capacity | Test objective |
|---|---|---|---|---|---|---|---|
| Off Cycle Fan Power | 35 | <50 | | | | Compressor Off | Measure fan input power during compressor off cycle. |
| Refrigeration Capacity Suction A | 35 | <50 | 25 | 38 | 5 | Compressor On | Determine Net Refrigeration Capacity of Unit Cooler. |

**Note:** Superheat to be set according to equipment specification in equipment or installation manual. If no superheat specification is given, a default superheat value of 6.5 °F shall be used. The superheat setting used in the test shall be reported as part of the standard rating.

TABLE 16—FREEZER UNIT COOLER

| Test description | Unit cooler air entering dry-bulb, °F | Unit cooler air entering relative humidity, % | Saturated suction temp, °F | Liquid inlet saturation temp, °F | Liquid inlet subcooling temp, °F | Compressor capacity | Test objective |
|---|---|---|---|---|---|---|---|
| Off Cycle Fan Power | −10 | <50 | | | | Compressor Off | Measure fan input power during compressor off cycle. |
| Refrigeration Capacity Suction A | −10 | <50 | −20 | 38 | 5 | Compressor On | Determine Net Refrigeration Capacity of Unit Cooler. |

TABLE 16—FREEZER UNIT COOLER—Continued

| Test description | Unit cooler air entering dry-bulb, °F | Unit cooler air entering relative humidity, % | Saturated suction temp, °F | Liquid inlet saturation temp, °F | Liquid inlet subcooling temp, °F | Compressor capacity | Test objective |
|---|---|---|---|---|---|---|---|
| Defrost | −10 | Various | | | | Compressor Off | Test according to Appendix C Section C11. |

**Note:** Superheat to be set according to equipment specification in equipment or installation manual. If no superheat specification is given, a default superheat value of 6.5 °F shall be used. The superheat setting used in the test shall be reported as part of the standard rating.

(3) *Representations.* HTPG may not make representations about the energy efficiency of a basic model listed in paragraph (1) of this Order for compliance or marketing, unless the basic model has been tested in accordance with the provisions set forth above and such representations fairly disclose the results of such testing.

(4) This waiver shall remain in effect according to the provisions of 10 CFR 431.401.

(5) DOE issues this waiver on the condition that the statements, representations, and information provided by HTPG are valid. If HTPG makes any modifications to the controls or configurations of these basic models, such modifications will render the waiver invalid with respect to that basic model, and HTPG will either be required to use the current Federal test method or submit a new application for a test procedure waiver. DOE may rescind or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of a basic model's true energy consumption characteristics. 10 CFR 431.401(k)(1). Likewise, HTPG may request that DOE rescind or modify the waiver if HTPG discovers an error in the information provided to DOE as part of its petition, determines that the waiver is no longer needed, or for other appropriate reasons. 10 CFR 431.401(k)(2).

(6) HTPG remains obligated to fulfill any applicable requirements set forth at 10 CFR part 429.

**Signing Authority**

This document of the Department of Energy was signed on March 15, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 16, 2021.

**Treena V. Garrett,**

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

[FR Doc. 2021–05736 Filed 3–18–21; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG21–107–000.
*Applicants:* Citadel Solar, LLC.
*Description:* Citadel Solar, LLC submits Self-Certification of Exempt Wholesale Generator Status.
*Filed Date:* 3/11/21.
*Accession Number:* 20210311–5226.
*Comments Due:* 5 p.m. ET 4/1/21.

*Docket Numbers:* EG21–108–000.
*Applicants:* Assembly Solar II, LLC.
*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Assembly Solar II, LLC.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5154.
*Comments Due:* 5 p.m. ET 4/2/21.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2739–030; ER20–660–005; ER10–1892–017; ER16–1652–018.
*Applicants:* LS Power Marketing, LLC, Bolt Energy Marketing, LLC, Columbia Energy LLC, LifeEnergy, LLC.
*Description:* Triennial Market Power Analysis for Central Region of LS Power Marketing, LLC, et al.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5099.
*Comments Due:* 5 p.m. ET 5/11/21.

*Docket Numbers:* ER15–704–021
*Applicants:* Pacific Gas and Electric Company.
*Description:* Compliance filing: CCSF Compliance filing to update Intervening Facilities (Mar 11, 2021) to be effective 7/1/2015.
*Filed Date:* 3/11/21.
*Accession Number:* 20210311–5204.
*Comments Due:* 5 p.m. ET 4/1/21.

*Docket Numbers:* ER20–756–001.
*Applicants:* North Jersey Energy Associates, A Limited Partnership.
*Description:* Report Filing: Refund Report under EL20–24 to be effective N/A.
*Filed Date:* 3/11/21.
*Accession Number:* 20210311–5169.
*Comments Due:* 5 p.m. ET 4/1/21.

*Docket Numbers:* ER20–1090–000.
*Applicants:* NorthWestern Corporation.
*Description:* NorthWestern Corporation, South Dakota submits Response to Deficiency Letter.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5054.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–963–000.
*Applicants:* Silverstrand Grid, LLC.
*Description:* Supplement to January 28, 2021 Silverstrand Grid, LLC tariff filing.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5077.
*Comments Due:* 5 p.m. ET 3/22/21.

*Docket Numbers:* ER21–1299–001.
*Applicants:* Black Hills Colorado Electric, LLC.
*Description:* Compliance filing: Supplemental Report Regarding WECC Soft Offer Cap to be effective N/A.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5222.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1332–000.
*Applicants:* Rubicon NYP Corp.
*Description:* Tariff Cancellation: Notice of Cancellation to be effective 3/30/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5001.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1333–000.
*Applicants:* Pacific Gas and Electric Company.
*Description:* § 205(d) Rate Filing: SMUD Work Performance Agreement

for Hurley-Proctor Line (TO SA 119) to be effective. 3/13/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5009.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1337–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: 2880R3 Enel Green Power Rattlesnake Creek Wind Project GIA to be effective 2/24/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5044.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1338–000.

*Applicants:* Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

*Description:* § 205(d) Rate Filing: 2021–03–12_SA 2801 ATC-City of Sturgeon Bay 1st Rev CFA to be effective 5/12/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5063

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1339–000.

*Applicants:* California Ridge Wind Energy LLC.

*Description:* Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 5/11/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5067.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1340–000.

*Applicants:* PPL Electric Utilities Corporation, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: PPL Electric submits SA No. 3880 to be effective 3/13/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5073.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1341–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Rev to OA, Sch. 12 & RAA, Sch. 17 RE defaulted member Entrust Energy East, Inc. to be effective 5/12/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5076.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1342–000.

*Applicants:* Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

*Description:* § 205(d) Rate Filing: 2021–03–12_SA 2776 ATC-Village of Prairie du Sac 1st Rev CFA to be effective 5/12/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5083.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1343–000.

*Applicants:* LS Power Marketing, LLC, Bolt Energy Marketing, LLC, Columbia Energy LLC, LifeEnergy, LLC.

*Description:* Request for Exemption from Category 2 Seller Status in Central Region of LS Power Marketing, LLC, et al.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5103.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1348–000.

*Applicants:* Southwest Power Pool, Inc.

*Description:* § 205(d) Rate Filing: Revisions to Clarify Attachment AR Screening Study Process to be effective 5/12/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5135.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1350–000.

*Applicants:* Citadel Solar, LLC.

*Description:* Baseline eTariff Filing: Citadel Solar, LLC MBR Tariff to be effective 3/13/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5140.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1351–000.

*Applicants:* Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

*Description:* § 205(d) Rate Filing: 2021–03–12_SA 2805 ATC-Rock Energy Cooperative 1st Rev CFA to be effective 5/12/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5144.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1352–000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: 2021–03–12 OATT Att-W–E&P-FormofSvcAgrmt-NSPM & NSPW to be effective 5/12/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5149.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1355–000.

*Applicants:* Midcontinent Independent System Operator, Inc., American Transmission Company LLC.

*Description:* § 205(d) Rate Filing: 2021–03–12_SA 2768 ATC-City of Plymouth 1st Rev CFA to be effective 5/12/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5175.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1356–000.

*Applicants:* Little Bear Solar 1, LLC.

*Description:* § 205(d) Rate Filing: Notice of Non-Material Change in Status and Change in Category Seller Status to be effective. 3/13/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5179.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1357–000.

*Applicants:* Little Bear Solar 3, LLC.

*Description:* § 205(d) Rate Filing: Notice of Non-Material Change in Status and Change in Category Seller Status to be effective. 3/13/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5183.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1358–000.

*Applicants:* Little Bear Solar 4, LLC.

*Description:* § 205(d) Rate Filing: Notice of Non-Material Change in Status and Change in Category Seller Status to be effective. 3/13/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5184.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1359–000.

*Applicants:* Little Bear Solar 5, LLC.

*Description:* § 205(d) Rate Filing: Notice of Non-Material Change in Status and Change in Category Seller Status to be effective. 3/13/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5188.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1360–000.

*Applicants:* Little Bear Master Tenant, LLC.

*Description:* § 205(d) Rate Filing: Notice of Non-Material Change in Status and Change in Category Seller Status to be effective. 3/13/2021.

*Filed Date:* 3/12/21..

*Accession Number:* 20210312–5196

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1362–000.

*Applicants:* Sun Streams 2, LLC.

*Description:* § 205(d) Rate Filing: Notice of Non-Material Change in Status and Change in Category Seller Status to be effective. 3/13/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5207.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1363–000.

*Applicants:* Public Service Company of New Mexico.

*Description:* § 205(d) Rate Filing: Transmission Service Agreements with Leeward Renewable Energy Development, LLC to be effective 5/12/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5215.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1364–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Revisions to Sch. 12-Appx A: February 2021 RTEP, 30-day Comment Period Requested to be effective 6/10/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5228.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1365–000.

*Applicants:* Fowler Ridge IV Wind Farm LLC.

*Description:* Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 3/13/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5242.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1366–000.

*Applicants:* Power Authority of the State of New York, New York Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: Joint TPIA among the NYISO, NYPA and NextEra SA No. 2603 to be effective 2/26/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5249.

*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1367–000.

*Applicants:* New York Independent System Operator, Inc., Central Hudson Gas & Electric Corporation.

*Description:* § 205(d) Rate Filing: 205: Joint NYISO-Central Hudson TPIA 2605 Transco Sgmnt B CEII to be effective 2/26/2021.

*Filed Date:* 3/12/21.

*Accession Number:* 20210312–5253.

*Comments Due:* 5 p.m. ET 4/2/21.

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: March 12, 2021.

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

*Deputy Secretary.*

[FR Doc. 2021–05714 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1375–000]**

### Diamond Energy ISONE, 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 Diamond Energy ISONE, 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 April 5, 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: March 15, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–05724 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1371–000]**

### Edwards Sanborn Storage II, 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 Edwards Sanborn Storage II, 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 April 5, 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: March 15, 2021.

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

*Deputy Secretary.*

[FR Doc. 2021–05710 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1372–000]**

### Diamond Retail 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 Diamond Retail 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 April 5, 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: March 15, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–05722 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

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## 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:* RP21–588–001.
*Applicants:* ANR Pipeline Company.
*Description:* Tariff Amendment: Amendment to RP21–588–000 to be effective 4/1/2021.
*Filed Date:* 3/11/21.
*Accession Number:* 20210311–5000.
*Comments Due:* 5 p.m. ET 3/17/21.

*Docket Numbers:* RP21–617–000.
*Applicants:* Empire Pipeline, Inc.
*Description:* § 4(d) Rate Filing: Fuel Tracker (Empire Tracking Supply Retainage 2021) to be effective 4/1/2021.
*Filed Date:* 3/11/21.
*Accession Number:* 20210311–5063.
*Comments Due:* 5 p.m. ET 3/23/21.

*Docket Numbers:* RP21–618–000.
*Applicants:* Southern Star Central Gas Pipeline, Inc.
*Description:* Compliance filing Operational Flow Order Penalties Waiver Request.
*Filed Date:* 3/11/21.
*Accession Number:* 20210311–5206.
*Comments Due:* 5 p.m. ET 3/18/21.

*Docket Numbers:* RP21–619–000.
*Applicants:* Arlington Storage Company, LLC.
*Description:* § 4(d) Rate Filing: Arlington Storage Company, LLC, Filing of Amendments to Nonconforming Agreements to be effective 4/1/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5065.
*Comments Due:* 5 p.m. ET 3/24/21.

*Docket Numbers:* RP21–620–000.
*Applicants:* GreenAmerica Biofuels Ord LLC, Green Plains Ord LLC.
*Description:* Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of GreenAmerica Biofuels Ord LLC, et al. under RP21–620.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5106.
*Comments Due:* 5 p.m. ET 3/19/21.

*Docket Numbers:* RP21–621–000.
*Applicants:* ANR Pipeline Company.
*Description:* § 4(d) Rate Filing: ANR WPS NRA Amendments to be effective 4/1/2019.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5119.
*Comments Due:* 5 p.m. ET 3/24/21.

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: March 15, 2021.

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

*Deputy Secretary.*

[FR Doc. 2021–05707 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1350–000]**

### Citadel 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 Citadel 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 April 5, 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: March 15, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–05729 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. AD21–13–000]**

### Climate Change, Extreme Weather, and Electric System Reliability; Supplemental Notice of Technical Conference Inviting Comments

As announced in the Notice of Technical Conference issued in this proceeding on March 5, 2021, Federal Energy Regulatory Commission (Commission) staff will convene a technical conference to discuss issues surrounding the threat to electric system reliability posed by climate change and extreme weather events. The conference will be held on Tuesday, June 1, 2021 and Wednesday June 2, 2021, from approximately 1:00 p.m. to 5:00 p.m. Eastern Time each day.

Interested persons are invited to submit comments regarding the issues described in the appendix below. Comments are due on or before April 15, 2021. Comments must refer to Docket No. AD21–13–000 and must include the commenter's name, the organization they represent, if applicable, and their address. Commenters need not answer all of the questions but are encouraged to organize responses using the numbering and order in the appendix below.

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

Those unable to file electronically may mail comments via the U.S. Postal Service to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Hand-delivered comments or comments sent via any other carrier should be delivered to: Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, Maryland 20852.

All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely. Commenters in this proceeding are not required to serve copies of their comments on other commenters.

Dated: March 15, 2021.

**Kimberly D. Bose,**

*Secretary.*

### Appendix

1. What are the most significant near-, medium-, and long-term challenges posed to electric system reliability due to climate change and extreme weather events?

2. With respect to extreme weather events (*e.g.,* hurricanes, extreme heat, extreme cold, drought, storm surges and other flooding events, or wildfires), have these issues impacted the electric system, either directly or indirectly, more frequently or seriously than in the past, and if so, how? Will extreme weather events require changes to the way generation, transmission, substation, or other facilities are designed, built, sited, and operated?

3. Climate change has a range of other impacts, such as long-term increases in ambient air or water temperatures that may impact cooling systems, changes in precipitation patterns that may impact such

factors as reservoir levels or snowpack, and rising sea levels among others. Will these impacts require changes to the way generation, transmission, substation, or other facilities are designed, built, sited, and operated?

4. What are the electric system reliability challenges associated with ''common mode failures'' where, due to a climate change or extreme weather event, a large number of facilities critical to electric reliability (*e.g.,* generation resources, transmission lines, substations, and natural gas pipelines) experience outages or significant operational limitations, either simultaneously or in close succession? How do these challenges differ across types of generation resources (*e.g.,* natural gas, coal, hydro, nuclear, solar, wind)? To what extent does geographic diversity (*i.e.,* sharing capacity from many resources across a large footprint) mitigate the risk of common mode failures?

5. Are there improvements to coordinated operations and planning between energy systems (*e.g.,* the natural gas and electric power systems) that would help reduce risk factors related to common mode failures? What could those improved steps include?

6. How are relevant regulatory authorities (*e.g.,* federal, state, and local regulators), individual utilities (including federal power marketing agencies), and regional planning authorities (*e.g.,* RTOs/ISOs) evaluating and addressing challenges posed to electric system reliability due to climate change and extreme weather events and what potential future actions are they considering? What additional steps should be considered to ensure electric system reliability?

7. Are relevant regulatory authorities, individual utilities, or regional planning authorities considering changes to current modeling and planning assumptions used for transmission and resource adequacy planning? For example, is it still reasonable to base planning models on historic weather data and consumption trends if climate change is expected to result in extreme weather events that are both more frequent and more intense than historical data would suggest? If not, is a different approach to modeling and planning transmission and resource adequacy needs required? How should the benefits and constraints of alternative modeling and planning approaches be assessed?

8. Are relevant regulatory authorities, individual utilities, or regional planning authorities considering measures to harden facilities against extreme weather events (*e.g.,* winterization requirements for generators, substations, transmission circuits, and interstate natural gas pipelines)? If so, what measures? Should additional measures be considered?

9. How have entities responsible for real-time operations (*e.g.* utilities, RTOs/ISOs, generator operators) changed their operating practices in light of the challenges posed by climate change and extreme weather events and what potential future actions are they considering? What additional steps should be considered to change operating practices to ensure electric system reliability?

10. Are seasonal resource adequacy assessments currently performed, and have they proven effective at identifying actual resource adequacy needs? If they are used, is there a process to improve the assessments to account for a rapidly changing risk environment such as that driven by climate change? If seasonal resource adequacy assessments are performed, are probabilistic methods used to evaluate a wider range of system conditions such as non-peak periods, including shoulder months and low load conditions?

11. Are any changes being considered to the resource outage planning process? For instance, should current practices of scheduling outages in perceived ''non-peak'' periods be re-evaluated, and should the consideration during planning of the reserve needs during non-peak outage periods be improved?

12. Mass public notification systems (*e.g.,* cellphone texts, emails, smart thermostat notifications) are sometimes used in emergencies to solicit voluntary reductions in the demand for electricity. To what extent are such measures used when faced with emergencies related to climate change or extreme weather events, have they been effective in helping to address emergencies, and is there room for improvement?

13. What measures are being considered to improve recovery times following extreme weather event-related outages? For example, are there potential changes to operating procedures, spare equipment inventory, or mutual assistance networks under consideration? What additional steps should be considered to improve recovery times?

14. Given the key role blackstart resources play in recovering from large-scale events on the electric system, how is the sufficiency of existing blackstart capability assessed, and has that assessment been adjusted to account for factors associated with climate change or extreme weather events? For example, is the impact of potential common mode failures considered in the development of black start restoration plans (including but not limited to common mode failure impacts on generation resources, transmission lines, substations, and interstate natural gas pipelines)? Should these be addressed?

15. What actions should the Commission consider to help achieve an electric system that can better withstand, respond to, and recover from climate change and extreme weather events? In particular, are there changes to ratemaking practices or market design that the Commission should consider?

16. Are there opportunities to improve the Commission-approved NERC Reliability Standards in order to address vulnerabilities to the bulk power system due to climate change or extreme weather events in areas including but not limited to the following: Transmission planning, bulk power system operations, bulk power system maintenance, emergency operations, and black start restoration? For example, should the Reliability Standards require transmission owners, operators or others to take additional steps to maintain reliability of the bulk power system in high wildfire or storm surge risk areas? Should the Reliability Standards require the application of new technologies to address vulnerabilities related to extreme weather events, such as to use new technologies to inspect the bulk power system remotely?

17. Where climate change and extreme weather events may implicate both federal and state issues, should the Commission consider conferring with the states, as permitted under FPA section 209(b), to collaborate on such issues?

[FR Doc. 2021–05726 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1373–000]**

### Edwards Solar 1A, 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 Edwards Solar 1A, 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 April 5, 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: March 15, 2021.

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

*Deputy Secretary.*

[FR Doc. 2021–05711 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER18–397–001.
*Applicants:* SunE Beacon Site 2 LLC.
*Description:* Compliance filing: Notice of Non-Material Change in Status and Revised MBR Tariff to be effective 3/13/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5235.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER18–398–001.
*Applicants:* SunE Beacon Site 5 LLC.
*Description:* Compliance filing: Notice of Non-Material Change in Status and Revised MBR Tariff to be effective 3/13/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5236.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER20–1961–001.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Compliance filing: Deficiency Response in ER20–1961—NorthWestern Formula Rate Revision to be effective N/A.
*Filed Date:* 3/15/21.
*Accession Number:* 20210315–5148.
*Comments Due:* 5 p.m. ET 4/5/21.

*Docket Numbers:* ER20–2133–001.
*Applicants:* ISO New England Inc., Versant Power.
*Description:* Compliance filing: Versant Power; Order No. 864 Compliance Filing—Response to Staff Letter to be effective N/A.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5295.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1331–000.
*Applicants:* Southwest Power Pool Inc., Southwest Power Pool Market Monitoring Unit.
*Description:* Supplement to March 11, 2021 Request for Limited Waiver of Tariff Provisions, et al. of Southwest Power Pool, Inc.
*Filed Date:* 3/15/21.
*Accession Number:* 20210315–5050.
*Comments Due:* 5 p.m. ET 3/16/21.

*Docket Numbers:* ER21–1368–000.
*Applicants:* Valley Center ESS, LLC.
*Description:* Baseline eTariff Filing: Market-Based Rate Application to be effective 5/12/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5275.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1369–000.
*Applicants:* Edwards Sanborn Storage I, LLC.
*Description:* Baseline eTariff Filing: Market-Based Rate Application to be effective 5/12/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5280.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1370–000.
*Applicants:* Assembly Solar II, LLC.
*Description:* Baseline eTariff Filing: Baseline new to be effective 4/15/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5282.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1371–000.
*Applicants:* Edwards Sanborn Storage II, LLC.
*Description:* Baseline eTariff Filing: Market-Based Rate Application to be effective 5/12/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5285.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1372–000.
*Applicants:* Diamond Retail Energy, LLC.
*Description:* Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 5/11/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5288.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1373–000.
*Applicants:* Edwards Solar 1A, LLC.
*Description:* Baseline eTariff Filing: Market-Based Rate Application to be effective 5/12/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5289.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1374–000.
*Applicants:* Diamond Energy PJM, LLC.
*Description:* Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 5/11/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5291.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1375–000.
*Applicants:* Diamond Energy ISONE, LLC.
*Description:* Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 5/11/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5292.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1376–000.
*Applicants:* Sanborn Solar 1A, LLC.
*Description:* Baseline eTariff Filing: Market-Based Rate Application to be effective 5/12/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5298.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1377–000.
*Applicants:* Diamond Energy NYISO, LLC.
*Description:* Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 5/11/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5300.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1378–000.
*Applicants:* Assembly Solar II, LLC.
*Description:* § 205(d) Rate Filing: Certificate of Concurrence of Assembly Solar to be effective 4/15/2021.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5301.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1379–000.
*Applicants:* La Joya Wind, LLC.
*Description:* § 205(d) Rate Filing: Request for Authorization to Make Affiliate Sales, for Contract Specific Auth. to be effective 12/31/9998.
*Filed Date:* 3/12/21.
*Accession Number:* 20210312–5302.
*Comments Due:* 5 p.m. ET 4/2/21.

*Docket Numbers:* ER21–1388–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 1534R12 Kansas Municipal Energy Agency NITSA NOA to be effective 3/1/2021.
*Filed Date:* 3/15/21.
*Accession Number:* 20210315–5085.

*Comments Due:* 5 p.m. ET 4/5/21.

*Docket Numbers:* ER21–1391–000.

*Applicants:* Southwest Power Pool, Inc..

*Description:* § 205(d) Rate Filing: 2646R8 Kansas Municipal Energy Agency NITSA NOA to be effective 3/1/2021.

*Filed Date:* 3/15/21.

*Accession Number:* 20210315–5121.

*Comments Due:* 5 p.m. ET 4/5/21.

*Docket Numbers:* ER21–1393–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5997; Queue No. AF1–249 to be effective 2/11/2021.

*Filed Date:* 3/15/21.

*Accession Number:* 20210315–5130.

*Comments Due:* 5 p.m. ET 4/5/21.

*Docket Numbers:* ER21–1395–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original ISA, Service Agreement No. 5984; Queue Nos. AC1–174/AC1–175 to be effective 2/11/2021.

*Filed Date:* 3/15/21.

*Accession Number:* 20210315–5135.

*Comments Due:* 5 p.m. ET 4/5/21.

*Docket Numbers:* ER21–1396–000.

*Applicants:* Sugar Solar, LLC.

*Description:* Baseline eTariff Filing: Sugar Solar, LLC MBR Tariff to be effective 3/16/2021.

*Filed Date:* 3/15/21.

*Accession Number:* 20210315–5141.

*Comments Due:* 5 p.m. ET 4/5/21.

*Docket Numbers:* ER21–1397–000.

*Applicants:* PGR 2020 Lessee 8, LLC.

*Description:* Baseline eTariff Filing: PGR 2020 Lessee 8, LLC MBR Tariff to be effective 3/16/2021.

*Filed Date:* 3/15/21.

*Accession Number:* 20210315–5142.

*Comments Due:* 5 p.m. ET 4/5/21.

*Docket Numbers:* ER21–1401–000.

*Applicants:* Northern States Power Company, a Minnesota, corporation Northern States Power Company, a Wisconsin corporation.

*Description:* § 205(d) Rate Filing: 2021 Interchange Agreement Annual Filing to be effective 1/1/2021..

*Filed Date:* 3/15/21.

*Accession Number:* 20210315–5178.

*Comments Due:* 5 p.m. ET 4/5/21.

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: March 15, 2021.

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

*Deputy Secretary.*

[FR Doc. 2021–05706 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1374–000]**

### Diamond Energy PJM, 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 Diamond Energy PJM, 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 April 5, 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.

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Dated: March 15, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–05723 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP21–68–000]**

### ANR Pipeline Company; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on March 4, 2021, ANR Pipeline Company (ANR), 700 Louisiana Street, Suite 1300, Houston, Texas 77002, filed in the above referenced docket a prior notice pursuant to Section 157.205 and 157.216 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act and the blanket certificate issued by the Commission in Docket No. CP82–480–000,[1] seeking authorization to abandon

[1] *Michigan Wisconsin Pipe Line Company,* 20 FERC ¶ 62,595 (1982).

by removal twenty injection/withdrawal wells and related pipelines; and abandon seventeen storage line segments and appurtenant facilities in the Lincoln-Freeman Storage Field in Clare County, Michigan. ANR estimates the cost of the project to be $3.3 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Sorana Linder, Director, Modernization & Certificates, ANR Pipeline Company, 700 Louisiana Street, Suite 1300, Houston, Texas 77002, by telephone at (832) 320–5209, or by email at *sorana_linder@tcenergy.com*.

**Public Participation**

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on May 14, 2021. How to file protests, motions to intervene, and comments is explained below.

**Protests**

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is May 14, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

**Interventions**

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is May 14, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp*.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

**Comments**

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before May 14, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

**How to File Protests, Interventions, and Comments**

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–68–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing.'' The Commission's eFiling staff are available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov*.

(2) You can file a paper copy of your submission. Your submission must reference the Project docket number CP21–68–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Sorana Linder, Director, Modernization & Certificates, ANR Pipeline Company, 700 Louisiana Street, Suite 1300, Houston, Texas 77002, by telephone at (832) 320–5209, or by email at *sorana_linder@tcenergy.com*. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

downloaded from the service list at the eService link on FERC Online.

**Tracking the Proceeding**

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp*.

Dated: March 15, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–05727 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1376–000]**

### Sanborn Solar 1A, 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 Sanborn Solar 1A, 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 April 5, 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: March 15, 2021.

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

*Deputy Secretary.*

[FR Doc. 2021–05712 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1370–000]**

### Assembly Solar II, 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 Assembly Solar II, 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 April 5, 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: March 15, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–05728 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1368–000]**

### Valley Center ESS, 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 Valley Center ESS, 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 April 5, 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: March 15, 2021.

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

*Deputy Secretary.*

[FR Doc. 2021–05709 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER21–1377–000]**

### Diamond Energy NYISO, 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 Diamond Energy NYISO, 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 April 5, 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: March 15, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–05725 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP21–45–000]**

### Florida Gas Transmission Company, LLC; Notice of Scoping Period Requesting Comments On Environmental Issues for The Proposed Big Bend Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental impacts of the Big Bend Project involving construction and operation of facilities by Florida Gas Transmission Company, LLC (FGT) in Calhoun, Jefferson, Gadsden, Gilchrist, Santa Rosa, and Taylor Counties, Florida. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on April 14, 2021. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on January 29, 2021, you will need to file those comments in Docket No. CP21–45–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

FGT provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

#### Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP21–45–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

#### Summary of the Proposed Project

FGT proposes to construct and operate the Big Bend Project to provide about 29 million standard cubic feet of natural gas per day to serve the need for additional firm transportation service in Hillsborough and Pinellas Counties, Florida for current and future electricity generation. The project facilities would consist of:

- West Loop: Approximately 1.7 miles of 36-inch-diameter pipeline

loop[1] extension in Calhoun County, Florida;

- East Loop: Approximately 1.5 miles of 36-inch-diameter pipeline loop extension in Jefferson County, Florida;
- relocation of associated pig receiver stations in Calhoun and Jefferson Counties, Florida; and
- upgrade existing natural gas-fired compressor turbines at four existing compressor stations:
- Compressor Station 12—upgrade Unit 1207 from 15,000 horsepower (HP) to 16,000 HP in Santa Rosa County, Florida;
- Compressor Station 14—upgrade Unit 1409 from 20,500 HP to 23,500 HP in Gadsden County, Florida;
- Compressor Station 15—upgrade Unit 1507 from 15,000 HP to 16,000 HP in Taylor County, Florida; and
- Compressor Station 24—upgrade Unit 2403 from 20,500 HP to 23,500 HP in Gilchrist County, Florida.

The general location of the project facilities is shown in appendix 1.[2]

**Land Requirements for Construction**

Construction of the proposed facilities would disturb about 269.3 acres of land for the aboveground facilities and the pipeline. Following construction, FGT would maintain about 210.4 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses. All of the proposed pipeline route parallels existing pipeline, utility, or road rights-of-way. The modifications at Compressor Stations 12, 14, 15 and 24 would occur within the existing station boundaries without the need for ground disturbance.

**NEPA Process and the Environmental Document**

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- Geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/ Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary[3] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/ natural-gas/environment/ environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

**Consultation Under Section 106 of the National Historic Preservation Act**

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

**Environmental Mailing List**

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP21–45–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity. A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Section 1501.8.

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

*OR*

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

**Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: March 15, 2021.

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

*Deputy Secretary.*

[FR Doc. 2021–05708 Filed 3–18–21; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2020–0616; FRL–10018–35]**

## Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; User Fees for the Administration of the Toxic Substances Control Act (TSCA)

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''User Fees for the Administration of the Toxic Substances Control Act (TSCA)'' and identified by EPA ICR No. 2569.02 and OMB Control No. 2070–0208, represents the renewal of an existing ICR that is scheduled to expire on October 31, 2021. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

**DATES:** Comments must be received on or before May 18, 2021.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2020–0616, by using the *Federal eRulemaking Portal* at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

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

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Marc Edmonds, 7407M, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0758; email address: *edmonds.marc@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

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 estimates 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.

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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

### II. What information collection activity or ICR does this action apply to?

*Title:* User Fees for the Administration of the Toxic Substances Control Act (TSCA).

*ICR number:* EPA ICR No. 2569.02.

*OMB control number:* OMB Control No. 2070–0208.

*ICR status:* This ICR is currently scheduled to expire on October 31, 2021. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

*Abstract:* The Frank R. Lautenberg Chemical Safety for the 21st Century Act of 2016 made transformative changes to the TSCA, including an amendment that provides EPA with authority to collect fees to defray 25% of the costs associated with administering sections 4, 5, and 6 of TSCA, as well as the costs of collecting, processing, reviewing and providing access to and protecting CBI from disclosure as appropriate under TSCA section 14. The payment from manufactures (defined by statute to include importers) of a chemical substance who: are required to submit information to EPA under TSCA section 4, who submit certain notices and exemption requests to EPA under TSCA section 5, who manufacture a chemical substance that is subject to a risk evaluation under TSCA section 6(b)(4), and who process a chemical substance that is the subject of a Significant New Use Notice (SNUN) or Test Market Exemption (TME) under TSCA section 5 and who are required to submit

information to EPA under TSCA section 4 related to a SNUN submission. These fees are intended to achieve the goals articulated by Congress to provide a sustainable source of funds for EPA to fulfill its legal obligations to conduct the activities required under TSCA sections 4, 5 and 6 (such as risk-based screenings, designation of applicable substances as High- and Low-Priority, conducting risk evaluations to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment, requiring testing of chemical substances and mixtures, and evaluating and reviewing manufacturing and processing notices), as well as the activities under TSCA section 14 (*i.e.,* collecting, processing, reviewing, and providing access to and protecting information about chemical substances from disclosure as appropriate.

As amended in 2016, TSCA section 26(b) provides EPA with authority to establish fees to defray 25% the costs associated with administering TSCA sections 4, 5, 6 and of collecting, processing, reviewing, and providing access to and protecting information about chemical substances from disclosure as appropriate under TSCA section 14. Fee payments from chemical manufactures (including importers) who make submissions under TSCA section 5, are required to submit information under TSCA section 4 or are subject to a risk evaluation under TSCA section 6. EPA is not collecting a fee for submissions of Confidential Business Information (CBI) submitted under TSCA section 14.

*Burden statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

*Respondents/Affected Entities:* Entities potentially affected by this ICR may include the following entities (identified by North American Industrial Classification System (NAICS) codes):

- Petroleum and Coal Products (NAICS code 324);
- Chemical Manufacturing (NAICS code 325); and
- Chemical, Petroleum and Merchant Wholesalers (NAICS code 424).

*Estimated total number of potential respondents:* 1,348.

*Frequency of response:* On occasion.

*Estimated total average number of responses for each respondent:* 0.833

*Estimated total annual burden hours:* 581 hours.

*Estimated total annual costs:* $ 273,388. This includes an estimated burden cost of $230,607 it is estimated that there are no capital investment or maintenance and operational costs.

## III. Are there changes in the estimates from the last approval?

There is an increase in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB due to the increase in the number of entities potentially affected by this ICR and an increase in the number of information collection activities. The change in potentially affected entities reflects the number of submissions received under TSCA sections 5 and 6. EPA's burden estimates for this collection based upon historical information on the number of chemicals per premanufacture notices (PMNs), significant new use notifications (SNUNs), microbial commercial activity notices (MCANs), and exemption notices and applications including low-volume exemptions (LVEs), test-marketing exemptions (TMEs), low exposure/low release exemptions (LoREXs), TSCA experimental release applications (TERAs), certain new microorganism (Tier II) exemptions, and film article exemptions., and actions under TSCA section 6. This change is an adjustment.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. EPA intends to update this Supporting Statement during the comment period to reflect the 18-question format, and has included the questions in an attachment to this Supporting Statement. In doing so, the Agency does not expect the change in format to result in substantive changes to the information collection activities or related estimated burden and costs.

## IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

**Authority:** 44 U.S.C. 3501 *et seq.*

Dated: March 15, 2021.

**Michal Freedhoff,**

*Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

[FR Doc. 2021–05778 Filed 3–18–21; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[10021–48–OLEM]**

## FY2021 Supplemental Funding for Brownfields Revolving Loan Fund (RLF) Cooperative Agreement Recipients (CARs)

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

**ACTION:** Notice of the availability of funds.

**SUMMARY:** The Environmental Protection Agency (EPA) plans to make available approximately $10 million to provide supplemental funds to Revolving Loan Fund (RLF) cooperative agreements previously awarded competitively under section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). EPA will consider awarding supplemental funding only to RLF Cooperative Agreement Recipients (CARs or recipients) who have demonstrated an ability to deliver programmatic results by making at least one loan or subgrant. The award of these funds is based on the criteria described at CERCLA 104(k)(5)(A)(ii). The Agency is now accepting requests for supplemental funding from RLF CARs. Specific information on submitting a request for RLF supplemental funding is described below and additional information may be obtained by contacting the EPA Regional Brownfields Coordinator.

**DATES:** Requests for funding must be submitted to the appropriate EPA Regional Brownfields Coordinator (listed below) by April 19, 2021.

**ADDRESSES:** A request for supplemental funding must be in the form of a letter addressed to the appropriate Regional Brownfields Coordinator (see listing below) with a copy to Nicole Wireman, *Wireman.Nicole@epa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Nicole Wireman, U.S. EPA, (202) 566–

2649 or the appropriate Brownfields Regional Coordinator.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

*A. Does this action apply to me?*

You may be affected by this action if you are a current Brownfields RLF CAR.

*B. How can I get copies of the other related information and additional updates?*

EPA website. To access the FY2021 RLF Supplemental Funding information on EPA's website, please go to *https://www.epa.gov/brownfields/solicitations-brownfield-grants.* Any revisions to due dates or additional information necessary for submission of FY2021 RLF Supplemental Funding applications will be posted to this website rather than published in the **Federal Register**. Also, all future notices of the availability of Brownfields RLF Supplemental Funding will be posted on the same website. EPA will discontinue publication of notices of the availability of Brownfields RLF Supplemental Funding in the **Federal Register** for future fiscal years.

## II. Background

The Small Business Liability Relief and Brownfields Revitalization Act added section 104(k) to CERCLA to authorize federal financial assistance for brownfields revitalization, including grants for assessment, cleanup, and job training. Section 104(k) includes a provision for EPA to, among other things, award grants to eligible entities to capitalize Revolving Loan Funds and to provide loans and subgrants for brownfields cleanup. Section 104(k)(5)(A)(ii) authorizes EPA to make additional grant funds available to RLF CARs for any year after the year for which the initial grant is made (noncompetitive RLF supplemental funding) taking into consideration:

(I) The number of sites and number of communities that are addressed by the revolving loan fund;

(II) the demand for funding by eligible entities that have not previously received a grant under this subsection;

(III) the demonstrated ability of the eligible entity to use the revolving loan fund to enhance remediation and provide funds on a continuing basis; and

(IV) such other similar factors as the [Agency] considers appropriate to carry out this subsection.

## III. Eligibility

In order to be considered for supplemental funding, CARs must demonstrate that they have significantly depleted funds (both EPA grant funding and any available program income) and that they have a clear plan for utilizing requested additional funds in a timely manner. CARs must demonstrate that they have made at least one loan or subgrant prior to applying for this supplemental funding and have significantly depleted existing available funds. For FY2021, EPA defines ''significantly depleted funds'' as uncommitted, available funding totaling 25% or less of the total amount of RLF funds awarded under all open and closed grants. In addition, ''significant depleted funds'' cannot be demonstrated if the RLF balance exceeds $600,000. For new RLF recipients with an award of $1 million or less, funds will be considered significantly depleted if the uncommitted, available funding does not exceed $300,000. Additionally, the RLF recipient must demonstrate a need for supplemental funding based on, among other factors, the list of potential projects in the RLF program pipeline; an ability to make loans and subgrants for cleanups that can be started, completed, and lead to redevelopment; an ability to administer and revolve the RLF by generating program income; an ability to use the RLF grant to address funding gaps for cleanup; and evidence that the RLF has and will continue to provide future community benefit from past and potential future loan(s) and/or subgrant(s). Note that a 20% cost share is required for the entire RLF grant award, which includes the original grant funding plus all supplemental funds. The applicant must specify how it will meet the 20% cost share for the supplemental funds. EPA encourages innovative approaches to maximize revolving grant funds and leveraging with other funds, including use of grant funds as a loan loss guarantee or combining with other government or private sector lending resources. ''The Process and Considerations for Supplemental Funding for Brownfields RLF Grants'' contains information about the format and required content of RLF supplemental applications and can be found at *https://www.epa.gov/brownfields/solicitations-brownfield-grants.* Applicants are encouraged to discuss eligibility and other considerations with their EPA Regional Contact listed below prior to applying.

## IV. Regional Brownfields Coordinators

- *EPA Region 1 (CT, ME, MA, NH, RI, VT):* Dorrie Paar, 5 Post Office Square, Boston, MA 02109–3912; telephone number (617) 918–1432; email address: *Paar.Dorrie@epa.gov.*
- *EPA Region 2 (NJ, NY, PR, VI):* Alison Devine, 290 Broadway, 18th Floor, New York, NY 10007; telephone number (212) 637–4158: email address: *Devine.Alison@epa.gov.*
- *EPA Region 3 (DE, DC, MD, PA, VA, WV):* Brett Gilmartin, 1650 Arch Street, Mail Code 3HS51, Philadelphia, Pennsylvania 19103–2029; telephone number (215) 814–3405; email address: *Gilmartin.Brett@epa.gov.*
- *EPA Region 4 (AL, FL, GA, KY, MS, NC, SC, TN):* Derek Street, Atlanta Federal Center, 61 Forsyth Street SW, 10th Fl, Atlanta, GA 30303–8960; telephone number (404) 562–8574; email address: *Street.Derek@epa.gov.*
- *EPA Region 5 (IL, IN, MI, MN, OH, WI):* Keary Cragan, 77 West Jackson Boulevard, Mail Code SB–5J, Chicago, Illinois 60604–3507; telephone number (312) 353–5669; email address: *Cragan.Keary@epa.gov.*
- *EPA Region 6 (AR, LA, NM, OK, TX):* Camisha Scott, 1445 Ross Avenue, Suite 1200, (6SF–PB), Dallas, Texas 75202–2733; telephone number (214) 665–6755; email address: *Scott.Camisha@epa.gov.*
- *EPA Region 7 (IA, KS, MO, NE):* Susan Klein, 11201 Renner Blvd., Lenexa, Kansas 66219; telephone number (913) 551–7786; email address: *R7_Brownfields@epa.gov.*
- *EPA Region 8 (CO, MT, ND, SD, UT, WY):* Ted Lanzano, 1595 Wynkoop Street, Denver, CO 80202–1129; telephone number (303) 312–6596; email address: *Lanzano.Ted@epa.gov.*
- *EPA Region 9 (AZ, CA, HI, NV, AS, GU):* Noemi Emeric-Ford, 75 Hawthorne Street, WST–8, San Francisco, CA 94105; telephone number (213) 244–1821; email address: *Emeric-Ford.Noemi@epa.gov.*
- *EPA Region 10 (AK, ID, OR, WA):* Susan Morales, 1200 Sixth Avenue, Suite 900, Mailstop: ECL–112 Seattle, WA 98101; telephone number (206) 553–7299; email address: *Morales.Susan@epa.gov.*

**David Lloyd,**

*Director, Office of Brownfields and Land Revitalization, Office of Land and Emergency Management.*

[FR Doc. 2021–05677 Filed 3–18–21; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2021–0072; FRL–10021–43]**

## Pesticide Experimental Use Permit; Receipt of Application; Comment Request March 2021

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

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's receipt of an application 69553–EUP–E from Andermatt Biocontrol AG (c/o SciReg, Inc.), requesting an experimental use permit (EUP) for *Cydia pomonella granulovirus* isolate V45. The Agency has determined that the permit may be of regional and national significance. Therefore, because of the potential significance, EPA is seeking comments on this application.

**DATES:** Comments must be received on or before April 19, 2021.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2021–0072, by one of the following methods:

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

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

**FOR FURTHER INFORMATION CONTACT:** Charles Smith, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this action apply to me?*

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action.

### *B. What should I consider as i prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

## II. What action is the agency taking?

Under section 5 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136c, EPA can allow manufacturers to field test pesticides under development. Manufacturers are required to obtain an EUP before testing new pesticides or new uses of pesticides if they conduct experimental field tests on more than 10 acres of land or more than one surface acre of water.

Pursuant to 40 CFR 172.11(a), the Agency has determined that the following EUP application may be of regional and national significance, and therefore is seeking public comment on the EUP application:

*Submitter:* Andermatt Biocontrol AG, Stahlermatten 6, CH–6146, Grossdietwil, Switzerland (c/o SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192).

*Experimental Use Permit Number:* 69553–EUP–E.

*Pesticide Chemical: Cydia pomonella granulovirus* isolate V45.

*Summary of Request:* Andermatt Biocontrol AG is proposing to use 431 pounds of a *Cydia pomonella granulovirus* isolate V45 product, CX–6485, on over 300 acres between the 2022–2023 growing seasons on pome fruit (apple and pear), stone fruit (peach, nectarine, apricot, and hybrids of these) and walnut in California, Colorado, Michigan, New Jersey, New York, Oregon, Pennsylvania, and Washington. The use of the product is intended to verify its efficacy in reducing fruit damage by codling moth and Oriental fruit moth in larger plots under more realistic production conditions than possible in single-tree or small plot studies.

Following the review of the application and any comments and data received in response to this solicitation, EPA will decide whether to issue or deny the EUP request, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: March 9, 2021.

**Delores Barber,**

*Director, Information Technology and Resources Management Division, Office of Program Support.*

[FR Doc. 2021–05693 Filed 3–18–21; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2013–0324; FRL—10021–80–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Marine Tank Vessel Loading Operations (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), NESHAP for Marine Tank Vessel Loading Operations (EPA ICR Number 1679.11, OMB Control Number 2060–0289), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2021. Public comments were previously requested, via the **Federal Register** on May 12, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller

description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before April 19, 2021.

**ADDRESSES:** Submit your comments to EPA, referencing Docket ID No. EPA–HQ–OECA–2013–0324, online using *www.regulations.gov* (our preferred method), *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

*Abstract:* The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Marine Tank Vessel Loading Operations (40 CFR part 63, subpart Y) establishes Maximum Achievable Control Technology (MACT) standards for existing facilities and new facilities that load marine tank vessels with petroleum or gasoline. These facilities have aggregate actual hazardous air pollutants (HAP) emissions of 10 tons or more of each individual HAP, or 25 tons or more of all HAP combined. This NESHAP regulation also established reasonably-available control technology (RACT) standards to such facilities with an annual throughput of 10 million or more barrels of gasoline or 200 million or more barrels of crude oil. This information is being collected to assure compliance with 40 CFR part 63, subpart Y.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP.

*Form Numbers:* None.

*Respondents/affected entities:* Owners or operators of marine tank vessel loading operations.

*Respondent's obligation to respond:* Mandatory (40 CFR part 63, subpart Y).

*Estimated number of respondents:* 804 (total).

*Frequency of response:* Initially and semiannually.

*Total estimated burden:* 10,700 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $1,260,000 (per year), which includes $0 for annualized capital/startup and/or operation & maintenance costs.

*Changes in the Estimates:* There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations: (1) the regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup and/or operation and maintenance (O&M) costs.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2021–05697 Filed 3–18–21; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–9055–7]**

## 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 March 8, 2021 10 a.m. EST Through March 15, 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. 20210030, Final, USAF, SD, B–21 Main Operating Base 1 (MOB 1) Beddown at Dyess AFB, Texas or Ellsworth AFB, South Dakota, Review Period Ends: 04/19/2021, *Contact:* Julianne Turko 210–925–3777.

EIS No. 20210031, Final, FAA, NY, LaGuardia Access Improvement Program, Review Period Ends: 04/19/2021, *Contact:* Andrew Brooks 718–553–2511.

EIS No. 20210032, Final, NMFS, CA, ADOPTION—Placer County Conservation Program Final Environmental Impact Statement/Environmental Impact Report, *Contact:* Neal McIntosh 916–930–5647. The National Marine Fisheries Service (NMFS) has adopted the U.S. Fish and Wildlife Service (USFWS) Final EIS No. 20200107, filed 5/14/2020 with EPA. NMFS was a cooperating agency on this project. Therefore, republication of the document is not necessary under Section 1506.3(b)(2) of the CEQ regulations.

### Amended Notice

EIS No. 20210003, Draft, BLM, CA, WITHDRAWN—Desert Plan Amendment Draft Land Use Plan Amendment and Draft Environmental Impact Statement, *Contact:* Jeremiah Karuzas 916–978–4644. Revision to FR Notice Published 01/15/2021; Officially Withdrawn per request of the submitting agency.

EIS No. 20210010, Draft, FRA, MD, Draft Environmental Impact Statement and Draft Section 4(f) Evaluation Baltimore-Washington Superconducting MAGLEV Project, Comment Period Ends: 05/24/2021,

*Contact:* Brandon Bratcher 202–493–0844. Revision to FR Notice Published 01/22/2021; Extending the Comment Period from 04/22/2021 to 05/24/2021.

Dated: March 15, 2021.

**Cindy S. Barger,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2021–05748 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[10021–47–OA]**

### Notice of Meeting of the EPA Children's Health Protection Advisory Committee (CHPAC)

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

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held virtually May 3 and 10, 2021. The CHPAC advises the Environmental Protection Agency (EPA) on science, regulations and other issues relating to children's environmental health.

**DATES:** May 3, 2021 from 1 p.m. to 6 p.m. and May 10, 2021 from 1 p.m. to 6 p.m.

**ADDRESSES:** The meeting will take place virtually. If you want to listen to the meeting or provide comments, please email *louie.nica@epa.gov* for further details.

**FOR FURTHER INFORMATION CONTACT:** Nica Louie, Office of Children's Health Protection, U.S. EPA, MC 1107T, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 564–7633 or *louie.nica@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The meetings of the CHPAC are open to the public. An agenda will be posted to *https://www.epa.gov/children/childrens-health-protection-advisory-committee-chpac.*

*Access and Accommodations:* For information on access or services for individuals with disabilities, please contact Nica Louie at 202–564–7633 or *louie.nica@epa.gov.*

Dated: March 11, 2021.

**Nica Mostaghim,**

*Environmental Health Scientist.*

[FR Doc. 2021–05703 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OLEM–2020–0521; FRL—10021–73–OMS]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Survey of State Emergency Response Commissions (SERCs)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), Survey of State Emergency Response Commissions (EPA ICR Number 2660.01, OMB Control Number 2050–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a request for approval of a new collection. Public comments were previously requested via the **Federal Register** (on November 12, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before April 19, 2021.

**ADDRESSES:** Submit your comments to EPA, referencing Docket ID No. EPA–HQ–OLEM–2020–0521, online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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:** Sicy Jacob, Regulations Implementation Division, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (202) 564–8019; email address: *jacob.sicy@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* The EPA's Office of Emergency Management is conducting a survey of the State Emergency Response Commissions (SERCs) in each state and territory of the U.S. The SERCs were created under the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986. The purpose of this survey is to gather information on how EPCRA is being implemented, best practices, challenges, and gaps in meeting the requirements. After the survey is completed, EPA is planning to publish the results of the survey, including success stories and lessons learned, to share with all states and territories.

EPCRA established State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs) and assigned implementation responsibilities to these state and local agencies. EPCRA required SERCs to appoint LEPCs within a few months after the enactment of EPCRA and to supervise their activities. Importantly, SERCs should ensure that LEPCs develop local emergency response plans for their community, review the plans, and make suggestions to coordinate the plans with neighboring LEPCs. In addition, SERCs are required to collect and manage hazardous chemical information from facilities and to provide access to the public on the presence of hazardous chemicals in the community.

As part of the America's Water Infrastructure Act (AWIA), promulgated in October 2018, additional coordination and provision of information responsibilities were established for SERCs and LEPCs under EPCRA. Specifically, these EPCRA amendments establish notification and

information coordination with State Drinking Water Agency and Community Water Systems to ensure that these agencies prepare and protect the community from contamination of their water.

The data collected in this survey will inform the Agency about how SERCs are fulfilling the requirements of the law, specifically in sharing key information among all appropriate State organizations and managing LEPCs and their activities. Additionally, the results of the survey will help to identify areas where SERCs are having difficulty meeting their requirements, the specific challenges they are facing, and will identify areas where EPA can better assist SERCs and LEPCs in implementing EPCRA and its amendments under AWIA.

*Form Numbers:* None.

*Respondents/affected entities:* State Emergency Response Commissions.

*Respondent's obligation to respond:* Voluntary.

*Estimated number of respondents:* 19 (total).

*Frequency of response:* Once.

*Total estimated burden:* 76 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $5,301.00 (per year), includes $0.00 annualized capital or operation & maintenance costs.

*Changes in the Estimates:* This is a New ICR, so there is no change in burden.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2021–05653 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–R08–OPPT–2020–0013; FRL 10017–58–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; EPA Pollution Prevention (P2) Awards Program

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), EPA Pollution Prevention (P2) Awards Program (EPA ICR Number 2614.01, OMB Control Number 2008–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a request for approval of a new collection. Public comments were previously requested via the **Federal Register** on June 11, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before April 19, 2021.

**ADDRESSES:** Submit your comments to EPA, referencing Docket ID No. EPA–R08–OPPT–2020–0013, online using *www.regulations.gov* (our preferred method) or by email to *payan.melissa@epa.gov.*

Submit written comments and recommendations to OMB for the proposed information collection 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:** Melissa Payan, EPA R8 Land, Chemical and Redevelopment Division Pollution Prevention Program, (8LCR–CES), Environmental Protection Agency R8, 1595 Wynkoop St., Denver, CO 80202 telephone number: 303–312–6511; email address: *payan.melissa@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* The EPA Pollution Prevention (P2) program is a voluntary program that encourages businesses/facilities to adopt P2 projects that reduce both financial costs (*e.g.* waste management and cleanup) and environmental costs (*e.g.* health problems and environmental damage). P2 is any practice that reduces environmental releases of hazardous substances, pollutants, or contaminants prior to entering a waste stream for recycling, treatment, or disposal. In other words, P2 is source reduction, the prevention of waste generation and environmental releases at the source. It is not treatment, minimization, or diversion of wastes. P2 conserves natural resources, including water and energy. Businesses or organizations may voluntarily submit an application for a P2 Award during the solicitation period. The solicitation period will be done on an annual basis and is open for approximately 2 months, once posted. The timing of open solicitation is dependent upon regional discretion but cannot be less than 40 business days. This ICR may be applicable to EPA Headquarters, as well as any of the 10 Regional Offices that choose to participate and implement a P2 Awards Program.

*Form Numbers: EPA P2 Award Program Application,* Form 5800–005.

*Respondents/affected entities:* Various types of businesses from all North American Industry Classification System (NAICS) codes. However, businesses need to be from a state in an EPA Region implementing this awards program.

*Respondent's obligation to respond:* Voluntary (Pollution Prevention Act (PPA) 42 U.S.C. 13101(a)(2) and 42 U.S.C. 13103(b)(13).

*Estimated number of respondents:* 150

*Frequency of response:* Annually on a voluntary basis.

*Total estimated burden:* 975 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $90,422 (per year), includes no annualized capital or operation & maintenance costs.

*Changes in the Estimates:* This is a new information collection.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2021–05698 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–10020–12–OMS]**

## Privacy Act of 1974; System of Records

**AGENCY:** Science Advisory Board (SAB), Office of The Administrator (OA), Environmental Protection Agency (EPA).

**ACTION:** Notice of a modified system of records.

**SUMMARY:** The U.S. Environmental Protection Agency's (EPA), Science Advisory Board Staff Office (SABSO) is

giving notice that it proposes to modify the Science Advisory Board (SAB) Database of Scientific and Technical Experts system of records, pursuant to the provisions of the Privacy Act of 1974. The system assists EPA with providing management and technical support to three scientific and technical advisory committees that report to the EPA Administrator—the SAB, the Clean Air Scientific Advisory Committee (CASAC), and the Advisory Council on Clean Air Compliance Analysis (Council). The system is being modified to change: (1) The system platform from Lotus Notes to Oracle APEX; (2) the system name from EPA Science Advisory Board (SAB) Database of Scientific and Technical Experts to Science Advisory Board Application (SABAPP); (3) to reduce the categories of records in the system; and (4) to stop collecting new records for the Council.

**DATES:** Persons wishing to comment on this system of records notice must do so by April 19, 2021. New routine uses for this new system of records will be effective April 19, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OMS–2020–0472, by one of the following methods:

*Regulations.gov: www.regulations.gov.* Follow the online instructions for submitting comments.

*Email: oei.docket@epa.gov.*

*Fax:* 202–566–1752.

*Mail:* OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

*Hand Delivery:* OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OMS–2020–0472. The EPA policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *www.regulations.gov.* The *www.regulations.gov* website is an ''anonymous access'' system for EPA, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. Each agency determines submission requirements within their own internal processes and standards. EPA has no requirement of personal information. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington. DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OMS Docket is (202) 566–1752.

## Temporary Hours During COVID–19

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mailand faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Aaron Yeow; *yeow.aaron@epa.gov;* 202–564–2050, Physical Scientist, SAB Staff Office, U.S. Environmental Protection Agency, Mail Code 1400R, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:** The SAB Database of Scientific and Technical Experts system of records, EPA–58, is being migrated from the Lotus Notes platform to an Oracle platform as a result of the agency moving off of the Lotus Notes platform. In the process, EPA is changing the system name to Science Advisory Board Application (SABAPP) to have a more concise name. EPA is also reducing the categories of records stored in the system, as it will no longer store home contact information, *e.g.,* address and telephone number. The SABSO no longer uses this information. The system will no longer collect new records for the Council because the committee has been retired. The existing Council records will be maintained for historical and record-keeping purposes.

**SYSTEM NAME AND NUMBER:**

Science Advisory Board Application (SABAPP) EPA–58.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

National Computer Center (NCC), 109 TW Alexander Drive, Research Triangle Park, Durham, NC 27711.

**SYSTEM MANAGER(S):**

Aaron Yeow, Physical Scientist, SAB Staff Office, U.S. Environmental Protection Agency, Mail Code 1400R, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The authority for the establishment or appointment of these advisory committees is as follows: For the SAB, the Environmental Research, Development, and Demonstration Authorization Act (42 U.S.C. 4365); CASAC—section 109(d)(2) of the Clean Air Act (42 U.S.C. 7409(d)(2)); the Council, section 312(f) of the Clean Air Act (42 U.S.C. 7612(f)); the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et. seq.); FACA—41 CFR part 102–3; 5 U.S.C. 1104; 5 U.S.C. 1302.

**PURPOSE(S) OF THE SYSTEM:**

This system of records assists EPA with providing management and technical support to two active (SAB

and CASAC) scientific and technical advisory committees (SAB and CASAC) that report to the EPA Administrator and to maintain historical records of a retired committee (Council). The SAB Staff Office requests nominations of experts from the public wishing to nominate themselves or others for committees and panels providing advice to the Administrator. The Staff Office will identify experts to become Special Government Employees serving on advisory committees and panels. The SAB Staff Office conducts these activities to provide the EPA Administrator with scientific advice from balanced committees of qualified experts on high priority science issues. The SABAPP will track the status of their personnel paperwork; track the status of their ethics training and financial disclosure requirements of the Ethics in Government Act; and facilitate coordination of experts' participation in approximately fifty advisory projects per year and approximately eighty meetings per year. The SABAPP assists the SAB Staff Office to achieve these goals in an efficient manner that protects the privacy of scientific experts. The SABAPP serves as the repository and tracking system for the matters listed.

**CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM:**

Scientific and technical experts currently serving on committees and panels administered by the SAB Staff Office; scientific and technical experts who have served on such committees and panels since 2002; and scientific and technical experts nominated to serve on planned SAB Staff Office-supported committees and panels.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name; professional contact information, *e.g.,* professional title, institutional affiliation, and work contact information; dates of appointment to advisory committees and panels; expertise information, *e.g.,* curricula vitae and professional biographical sketches; and administrative history information, *e.g.,* history of personnel actions, history of submitting confidential financial disclosure forms, and history of completing annual ethics training.

**RECORD SOURCE CATEGORIES:**

The public provides names and contact information for scientific and/or technical experts to be considered for membership on the SAB and CASAC committees and panel. The individual experts themselves provide further contact information as well as their professional biosketches and curricula vitae.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

The following routine uses are both related to and compatible with the original purpose for which the information was collected. The information may be disclosed to and for the following *EPA General Routine Uses* published at 73 FR 2245: General routine uses A, B, C, E, F, G, H, I, J, and K apply to this system (73 FR 2245). In addition, the two routine uses below (L and M) are required under OMB M–17–12.

*A. Disclosure for Law Enforcement Purposes:* Information may be disclosed to the appropriate Federal, State, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

*B. Disclosure Incident to Requesting Information:* Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested,) when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring,) retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

*C. Disclosure to Requesting Agency:* Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

*D. Disclosure to Office of Management and Budget:* Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

*E. Disclosure to Congressional Offices:* Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

*F. Disclosure to Department of Justice:* Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof;
2. Any employee of the Agency in his or her official capacity;
3. Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency have agreed to represent the employee; or
4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

*G. Disclosure to the National Archives:* Information may be disclosed to the National Archives and Records Administration in records management inspections.

*H. Disclosure to Contractors, Grantees, and Others:* Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

*I. Disclosures for Administrative Claims, Complaints and Appeals:* Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee,

but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

*J. Disclosure to the Office of Personnel Management:* Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of Federal personnel management.

*K. Disclosure in Connection with Litigation:* Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

*L. Disclosure to Persons or Entities in Response to an Actual of Suspected Breach of Personally Identifiable Information:* To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that there has been a breach of the system of records, (2) the Agency has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

*M. Disclosure to assist another agency in its efforts to respond to a breach:* To another Federal agency or Federal entity, when the Agency determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PROCEDURES FOR STORAGE OF RECORDS:**

These records are maintained electronically on servers located at EPA, National Computer Center (NCC), 109 TW Alexander Drive, Research Triangle Park, Durham, NC 27711. Backups will be maintained at a disaster recovery site.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Personal information is retrieved by expert's name or by committee or panel name.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained and disposed of in accordance with NARA records retention schedules appropriate to the retention of Federal Advisory Committee information, as well as EPA's Records Schedule 1024. The disposal of these records fall under the substantive committee records and are permanent.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Security controls used to protect personally identifiable information in SABAPP are commensurate with those required for an information system rated moderate for confidentiality, integrity, and availability, as prescribed in NIST Special Publication, 800–53, ''Recommended Security Controls for Federal Information Systems,'' Revision 4.

1. Administrative Safeguards—only authorized users needing access to the system will be granted role-based credentials to access the system. Users of EPA systems are required to complete security and privacy training on an annual basis to ensure continued access to the system.

2. Technical Safeguards—SABAPP is a password protected system requiring all users to log in to access the information in the system. It is only accessible on the EPA network using government furnished equipment. It utilizes the agency's network user-authentication process. The system times out after a period of latency ensuring a user re-authenticates their session with a username and password. The records are stored on an encrypted database.

3. Physical Safeguards—All records are maintained in secure areas and buildings with physical access controls.

**RECORD ACCESS PROCEDURES:**

Individuals seeking access to information in this system of records about themselves are required to provide adequate identification, *e.g.,* driver's license, military identification card, employee badge or identification card. Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations that implement the Privacy Act of 1974, at 40 CFR part 16.

**CONTESTING RECORDS PROCEDURES:**

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

**NOTIFICATION PROCEDURE:**

Any individual who wants to know whether this system of records contains a record about themself, should make a written request to the Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, or email *privacy@epa.gov.*

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

The original system of records notice for EPA–58 was published in the **Federal Register** on July 13, 2009, (74 FR 33435–33437).

**Vaughn Noga,**

*Senior Agency Official for Privacy.*

[FR Doc. 2021–05655 Filed 3–18–21; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2011–0928; FRL–10020–63–OAR]**

## Proposed Information Collection Request; Comment Request; Fuel Use Requirements for Great Lake Steamships (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Fuel Use Requirements for Great Lakes Steamships'' (EPA ICR No. 2458.05, OMB Control No. 2060–0679) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through November 30, 2021. An Agency may not conduct

or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before May 18, 2021.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2011–0928 online using *www.regulations.gov* (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Alan Stout, Office of Transportation and Air Quality, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105; 734–214–4805; *stout.alan@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents that explain in detail the information EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act, EPA is soliciting comments and information to enable it to: (i) 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; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* EPA adopted requirements for marine vessels operating in and around U.S. territorial waters to use reduced-sulfur diesel fuel. This requirement does not apply for steamships, but it would apply for steamships that are converted to run on diesel engines. A regulatory provision allows vessel owners to qualify for a waiver from the fuel-use requirements for a defined period for such converted vessels. One condition of the exemption from the fuel standard is that engines meet current emission standards. EPA uses the information to oversee compliance with regulatory requirements, including communicating with affected companies and answering questions from the public or other industry participants regarding the waiver in question. Since the IMO Tier III NOx standards apply for engines installed on U.S. vessels, we don't expect anyone to use the steamship exemption.

*Form Numbers:* None.

*Respondents/affected entities:* 0.

*Respondent's obligation to respond:* Required to obtain a benefit (40 CFR 1043.95).

*Estimated number of respondents:* 0.

*Frequency of response:* One time for a new notification.

*Total estimated burden:* 0 hours (per year). Burden is defined at 5 CFR 1320.03(b).

T*otal estimated cost:* $0.

*Changes in Estimates:* The burden estimate is unchanged from the current estimate in the total estimated respondent burden currently approved by OMB. Since the IMO Tier III NOx standards now apply for engines installed on U.S. vessels, we don't expect anyone to use the steamship exemption.

**William Charmley,**

*Director, Assessment and Standards Division.*

[FR Doc. 2021–05737 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OLEM–2020–0354; FRL—10021–68–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Gathering Data on Results of Annual and Triennial Testing To Evaluate the Impacts of EPA's 2015 Federal Underground Storage Tank Regulation

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Gathering Data on Results of Annual and Triennial Testing to Evaluate the Impacts of EPA's 2015 Federal Underground Storage Tank Regulation (EPA ICR No. 2650.01, OMB Control No. 2050–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a request for approval of a new collection. Public comments were previously requested via the **Federal Register** on November 5, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before April 19, 2021.

**ADDRESSES:** Submit your comments to EPA, referencing Docket ID: EPA- HQ–OLEM–2020–0354, online using *www.regulations.gov* (our preferred method), by email to *docket_oms@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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:** Elizabeth McDermott, Prevention Division, Office of Underground Storage Tanks, Mail Code 5401R, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–0646; email address: *McDermott.Elizabeth@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* This information collection request will allow EPA to employ a contractor to compile data from private companies providing regular servicing and maintenance to owners of federally regulated underground storage tank systems (USTs). The contractor will collect and assimilate testing data from several UST servicing companies. The contractor's deliverable will be a database of the performance results over multiple iterations of newly required UST testing procedures in various states across the country. These new tests were required by the 2015 UST regulation and are performed either annually or triennially. The data gathered will be pass/fail results from several testing measures, taken from facilities in 17 states where regulations went into effect soonest. These facilities were first required to be tested sometime after the 2015 federal regulation passed, with the second round of triennial required testing to be completed by October 2021.

The completed dataset of test results will allow EPA to evaluate the effectiveness of several of the newly required measures to prevent fuel releases that was required in the 2015 federal UST regulation. Data will be compiled from UST servicing companies about tests performed prior to the initial testing deadline, and from tests results for regulatory compliance for the second test required either within one year or three years after the initial test (depending on the test requirements). EPA may use the data to identify if, and by how much, testing required by the regulation impacts pass/fail rates over time. EPA is interested in quantitatively assessing if pass/fail rates improve between initial and subsequent rounds of testing in those states where data is collected.

*Form Numbers:* None.

*Respondents/affected entities:* UST testing and compliance companies, UST facility owners and operators.

*Respondent's obligation to respond:* Voluntary.

*Estimated number of respondents:* 680 (total).

*Frequency of response:* One-time collection.

*Total estimated burden:* 4,817 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $605,186 (per year), includes no annualized capital or operation & maintenance costs.

*Changes in the Estimates:* This is a request for a new collection.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2021–05654 Filed 3–18–21; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2014–0028; FRL—10021–79–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Calciners and Dryers in Mineral Industries (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), NSPS for Calciners and Dryers in Mineral Industries (EPA ICR Number 0746.11, OMB Control Number 2060–0251), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2021. Public comments were previously requested, via the **Federal Register** (85 FR 28003), on May 12, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before April 19, 2021.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0028, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to: OMB Desk Officer for EPA.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov,* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

*Abstract:* The New Source Performance Standards (NSPS) for Calciners and Dryers in Mineral Industries (40 CFR part 60, subpart UUU) were proposed on April 23, 1986; promulgated on September 28, 1992; and amended on July 29, 1993. These standards apply only to new calciners and dryers at mineral processing plants that either process or produce either any of the following minerals and their concentrates or any mixture of which the majority is any of the following minerals or a combination of these minerals: Alumina, ball clay, bentonite, diatomite, feldspar, fire clay, fuller's earth, gypsum, industrial sand, kaolin,

lightweight aggregate, magnesium compounds, perlite, roofing granules, talc, titanium dioxide, and vermiculite. New facilities include those that commenced construction, modification or reconstruction after the date of proposal. Owners and operators of affected facilities are required to comply with the recordkeeping and reporting requirements (General Provisions at 40 CFR 60, subpart A), as well as for the specific requirements at 40 CFR part 60, subpart UUU. This includes submitting initial notifications, performance tests, and periodic reports. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are used by EPA to determine compliance with these standards.

*Form Numbers:* None.

*Respondents/affected entities:* Mineral processing plants with calciners and dryers.

*Respondent's obligation to respond:* Mandatory (40 CFR part 60, subpart UUU).

*Estimated number of respondents:* 167 (total).

*Frequency of response:* Initially, occasionally, and semiannually.

*Total estimated burden:* 6,630 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $887,000 (per year), which includes $109,000 in annualized capital/startup and/or operation & maintenance costs.

*Changes in the Estimates:* There is no change in hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or operation and maintenance (O&M) costs.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2021–05696 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–10021–49–OP]**

## White House Environmental Justice Advisory Council; Notification of Virtual Public Meeting

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

**ACTION:** Notification of public meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act (FACA), the U.S. Environmental Protection Agency (EPA) hereby provides notice that the White House Environmental Justice Advisory Council (WHEJAC) will meet on the date and time described below. Due to unforeseen administrative circumstances, EPA is announcing this meeting with less than 15 calendar days public notice. The meeting is open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the WHEJAC. For additional information about registering to attend the meeting or to provide public comment, please see ''Registration'' under **SUPPLEMENTARY INFORMATION**. Due to the limit of 1000 participants, attendance will be on a first-come, first served basis. Pre-registration is required.

**DATES:** The WHEJAC will convene a public virtual meeting on Tuesday, March 30, 2021, from approximately 2:00 p.m.—6:00 p.m., Eastern Daylight Time. One public comment period relevant to the specific issues being considered by the WHEJAC (see **SUPPLEMENTARY INFORMATION**) is scheduled for Tuesday, March 30, 2021, at approximately 5:00 p.m., Eastern Daylight Time. Members of the public who wish to participate during the public comment period must pre-register by 11:59 p.m., Eastern Daylight Time on Sunday, March 28, 2021.

**FOR FURTHER INFORMATION CONTACT:** Karen L. Martin, WHEJAC Designated Federal Officer, U.S. EPA; *email: whejac@epa.gov;* telephone: (202) 564–0203. Additional information about the WHEJAC is available at *https://www.epa.gov/environmentaljustice/white-house-environmental-justice-advisory-council.*

**SUPPLEMENTARY INFORMATION:** The meeting discussion will focus on several topics including, but not limited to the implementation of Executive Order 14008, how to increase the Federal Government's efforts to address current and historic environmental injustices and the recommendations for updating Executive Order 12898.

The Charter of the WHEJAC states that the advisory committee will provide independent advice and recommendations to the Chair of the Council on Environmental Quality (CEQ) and to the White House Interagency Council on Environmental Justice (Interagency Council) on how to increase the Federal Government's efforts to address current and historic environmental injustice, including recommendations for updating Executive Order 12898. The WHEJAC will provide advice and recommendations about broad cross-cutting issues, related but not limited to, issues of environmental justice and pollution reduction, energy, climate change mitigation and resiliency, environmental health, and racial inequity. The WHEJAC's efforts will include a broad range of strategic, scientific, technological, regulatory, community engagement, and economic issues related to environmental justice.

*Registration:* Individual registration is required for the virtual public meeting. Information on how to register is located at *https://www.epa.gov/environmentaljustice/white-house-environmental-justice-advisory-council.* Registration for the meeting and to register to speak during the public comment period will close 11:59 p.m., Eastern Daylight Time on Sunday, March 28, 2021. When registering, please provide your name, organization, city and state, and email address for follow up. Please also indicate whether you would like to provide public comment during the meeting, and whether you are submitting written comments at the time of registration.

### A. Public Comment

Every effort will be made to hear from as many registered public commenters during the time specified on the agenda. Individuals or groups making remarks during the public comment period will be limited to three (3) minutes. To accommodate the number of people who want to address the WHEJAC during the time allotted on the agenda, only one representative of a particular community, organization, or group will be allowed to speak. Submission of written comments for the record are strongly encouraged. The suggested format for individuals providing public comments is as follows: name of speaker; name of organization/community; city and state; and email address; brief description of the concern, and what you want the WHEJAC to advise CEQ to do. Written comments received by registration deadline, will be included in the materials distributed to the WHEJAC

prior to the meeting. Written comments received after that time will be provided to the WHEJAC as time allows. All written comments should be sent to Karen L. Martin, EPA, via email at *whejac@epa.gov.*

**B. Information About Services for Individuals With Disabilities or Requiring English Language Translation Assistance**

For information about access or services for individuals requiring assistance, please contact Karen L. Martin, via email at *whejac@epa.gov.* To request special accommodations for a disability or other assistance, please submit your request to the email listed in the **FOR FURTHER INFORMATION CONTACT** section.

**Matthew Tejada,**

*Director for the Office of Environmental Justice.*

[FR Doc. 2021–05768 Filed 3–18–21; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

**[Docket No. AS21–03]**

### Submission for OMB Review; Comment Request

**AGENCY:** Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).

**ACTION:** Notice.

**SUMMARY:** The ASC as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension of a currently approved collection, as required by the Paperwork Reduction Act of 1995. On December 18, 2020, the ASC requested comment for 60 days on a proposal to renew this information collection. No comments were received. The ASC hereby gives notice of its plan to submit to the Office of Management and Budget (OMB) a request to approve the renewal of this collection and again invites comment on its renewal.

**DATES:** Written comments must be received on or before April 19, 2021 to be assured of consideration.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Lori Schuster, Management and Program Analyst, at (202) 595–7578, Appraisal Subcommittee, 1325 G Street NW, Suite 500, Washington, DC 20005. View the entire information collection request at *www.reginfo.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Reporting Information for the AMC Registry.

*OMB Number:* 3139–0009.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The Dodd-Frank Act requires the ASC to maintain the National Registry of Appraisal Management Companies (AMC Registry) of those AMCs that are either: (1) Registered with and subject to supervision by a State that has elected to register and supervise AMCs; or (2) are Federally regulated AMCs. In order for a State that elected to register and supervise AMCs to enter an AMC on the AMC Registry, the following items are required entries by the State via extranet application on the AMC Registry:

State Abbreviation
State Registration Number for AMC
Employer Identification Number (EIN)
AMC Name
  Street Address
  City
  State
  Zip
License or Registration Status
  Effective Date
  Expiration Date
AMC Type (State or multi-State)
Disciplinary Action
  Effective Date
  Expiration Date
Number of Appraisers (for invoicing registry fee)

States listing AMCs on the AMC Registry enter the above information for each AMC for the initial entry only. After the initial entry, the information is retained on the AMC Registry, and will only need to be amended if necessary by the State. Currently 51 States have elected to register and supervise AMCs with 39 States currently entering data in the AMC Registry.

*Current Action:* There are no changes being made to this regulation.

*Affected Public:* States.

*Estimated Number of Respondents:* 51 States.

*Estimated Burden per Response:* 15 minutes.

*Frequency of Response:* Annually and on occasion.

*Estimated Total Annual Burden Hours:* We estimate that a State will spend approximately 22.5 hours annually submitting data to the ASC for a total of 1,147.5 hours.

* * * * *

By the Appraisal Subcommittee.

**James R. Park,**

*Executive Director.*

[FR Doc. 2021–05657 Filed 3–18–21; 8:45 am]

**BILLING CODE 6700–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843), and interested persons may express their views in writing on the standards enumerated in section 4. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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 April 19, 20201.

*A. Federal Reserve Bank of Philadelphia* (William Spaniel, Senior Vice President) 100 North 6th Street,

Philadelphia, Pennsylvania 9105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *PB Bankshares, Inc.,* to become a bank holding company by acquiring Prosper Bank, both of Coatesville, Pennsylvania, upon its conversion from a mutual savings bank to a state chartered stock bank and to engage in extending credit and servicing loans pursuant to section 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 16, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021–05775 Filed 3–18–21; 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 April 5, 2021.

*A. Federal Reserve Bank of Dallas* (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *John H. Young 2020 Trust, Edward E. Hartline, as trustee,* to acquire voting shares of Central Bancshares, Inc., and thereby indirectly acquire voting shares of Central Bank, all of Houston, Texas; and for the John H. Young 2020 Trust to become a member of the Young Family Control Group, a group acting in concert.

Board of Governors of the Federal Reserve System, March 16, 2021.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2021–05776 Filed 3–18–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30 Day–21–21AN]**

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Examining Safety and Health Among Aviation Industry Workers in Alaska: A Survey to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 18, 2020 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

Examining Safety and Health Among Aviation Industry Workers in Alaska: A Survey—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The Occupational Safety and Health Act, 91 (section 20[a][1]), authorizes NIOSH to conduct research to advance the health and safety of workers.

The Alaska Department of Labor and Workforce Development received over 320,000 reports of occupational injury or illness which cost more than $3 billion in workers' compensation benefits from 2000–2013. Maintenance technicians and ramp/baggage/cargo/dock agents made up the largest number of claims from the aviation industry. Among these workers, the most frequently observed injury event was overexertion/bodily reaction, which most often led to sprains, strains, and tears.

NIOSH is proposing to update findings from a NIOSH-funded survey conducted in Alaska during 2001–2002 on attitudes and practices of pilots and aviation operators. This project is part of a larger National Occupational Research Agenda project ''Improving Safety in the Commercial Aviation Industry in Alaska'' which includes a survey of aviation workers in Alaska using

workers' compensation claims data to guide the selection of employee groups to target for survey participation.

The goals of this study are (1) To better understand work practices and the work environment where injuries occur in the aviation industry, (2) To identify and quantify the characteristics, attitudes, practices, and observations of workers to determine potential risk factors, and (3) To provide a snapshot of workers' perceived safety and health needs and concerns. The results of the study will be used to develop denominators for each occupation; identify statistically significant correlations between attitudes, behaviors, company policies, and accident rates; guide the development of prioritized evidence-based interventions and safety solutions for these workers and potentially other workers with similar tasks and in similar environments; and generate hypotheses for future research on health and safety topics in the aviation industry.

NIOSH has contracted with the University of Alaska Anchorage's Institute of Social and Economic Research (ISER) to develop and conduct the surveys. ISER conducted the previous survey of Alaska operators and pilots in 2001 and 2002 and has extensive experience in survey research in Alaska. The statewide survey questionnaire will be administered to air taxi and commuter airline operators (including the subset of single-pilot operators), commercial pilots, ramp/baggage/cargo/dock agents, customer service agents, and maintenance technicians.

The questionnaire for operators requests the number of employed pilots, ramp/baggage/cargo/dock agents, customer service agents, and maintenance technicians. This second element in the sample design will allow for the determination of the number of employees in each occupational group needed to complete the survey. The operator questionnaire requests the number of employees in the four occupational groups—pilots, mechanics, customer service agents, and ramp/baggage/cargo/dock agents, and their names and contact information.

The burden table lists the estimated population size of 306 operators; 820 commercial pilots; 1,400 maintenance technicians; 1,100 ramp/baggage/cargo/dock agents; and 1,600 customer service agents based on data from the Alaska Department of Labor and Workforce Development (2016). The total burden for all surveys, is estimated to be 1,547 hours. CDC is requesting a one-year approval. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Operators | Operator_Survey | 306 | 1 | 25/60 |
| Pilots | Pilot_Survey | 820 | 1 | 25/60 |
| Maintenance technicians | Maintenance Technician_Survey | 1,400 | 1 | 15/60 |
| Ramp/baggage/cargo/dock agents | RBCD_Survey | 1,100 | 1 | 15/60 |
| Customer Service Agents | CSA_Survey | 1,600 | 1 | 15/60 |
| All non-respondents | Non-respondent Questionnaire | 1,045 | 1 | 3/50 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021–05763 Filed 3–18–21; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–21–0743; Docket No. CDC–2021–0024]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Assessment and Monitoring of Breastfeeding-Related Maternity Care Practices in Intrapartum Care Facilities in the United States and Territories. The Maternity Practices in Infant Nutrition and Care (mPINC) survey is a census of maternity care hospitals in the United States and territories, that CDC has administered nearly every two years since 2007 in order to monitor and examine changes in breastfeeding-related maternity care over time.

**DATES:** CDC must receive written comments on or before May 18, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0024 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

*Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov.*

**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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register**

concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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.
5. Assess information collection costs.

**Proposed Project**

Assessment and Monitoring of Breastfeeding-Related Maternity Care Practices in Intrapartum Care Facilities in the United States and Territories (OMB Control No. 0920–0743, Exp. 10/31/2021)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

Substantial evidence demonstrates the social, economic, and health benefits of breastfeeding for both the mother and

infant as well as for society in general. Health professionals recommend at least 12 months of breastfeeding, and Healthy People 2030 establishes specific national breastfeeding goals. In addition to increasing overall rates, a significant public health priority in the U.S. is to reduce variation in breastfeeding rates across population subgroups. Although CDC surveillance data indicate that breastfeeding initiation rates in the United States are climbing, rates for duration and exclusivity continue to lag, and significant disparities persist between Black/African American and White women in breastfeeding rates.

The health care system is one of the most important and effective settings to improve breastfeeding, and the birth hospital stay has a crucial influence on later breastfeeding outcomes. Every two years between 2007–2015, CDC conducted the national survey of Maternity Practices in Infant Nutrition and Care (mPINC survey) in hospitals and free-standing birth centers to better understand national breastfeeding-supportive maternity practices and changes in these practices over time. Breastfeeding supportive maternity care practices have changed rapidly in the past few years, and in 2018 CDC redesigned the survey items to reflect these practice changes. In 2018 and 2020, the revised survey was administered to hospitals that routinely provide maternity care. The survey asks hospital maternity staff to report information about patient education and support for breastfeeding provided to their patients throughout the maternity stay, as well as staff training and maternity care policies.

The 2022 and 2024 mPINC survey methodology will closely match those previously administered. As an ongoing national census of hospitals in the United States and territories that provide maternity care, it does not employ sampling methods. CDC uses the American Hospital Association (AHA) Annual Survey of Hospitals to identify potential participating hospitals. Hospitals invited to participate in the survey include those that participated in previous iterations, those that received an invitation but did not participate in the previous iterations, and those that have become eligible since the most recent mPINC survey. CDC will screen all hospitals with one or more registered maternity beds via a brief phone call to assess their eligibility, identify the appropriate point of contact, and obtain business contact information for the person identified. The response rates for previous iterations of the mPINC survey range from 70%–83%. CDC will provide direct feedback to participating hospital in an individualized, hospital-specific report of their results. CDC will also use information from the mPINC surveys to identify, document, and share information related to changes in practices over time at the hospital, state, and national levels. Researchers also use the data to better understand relationships between hospital characteristics, maternity-care practices, state level factors, and breastfeeding initiation and continuation rates. Participation in the survey is voluntary, and participants submit responses through a secure Web-based system. There are no costs to respondents other than their time. CDC requests OMB approval of 805 annual burden hours for three years to conduct the 2022 and 2024 surveys.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hr) | Total burden (in hr) |
|---|---|---|---|---|---|
| Maternity Hospital | Screening Call Script Part A | 2,101 | 1 | 1/60 | 35 |
| Maternity Hospital | Screening Call Script Part B | 1,847 | 1 | 4/60 | 123 |
| Maternity Hospital | mPINC Hospital Survey | 1,293 | 1 | 30/60 | 647 |
| Total | | | | | 805 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021–05766 Filed 3–18–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Solicitation of Nominations for Appointment to the Healthcare Infection Control Practices Advisory Committee (HICPAC)

**ACTION:** Notice.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) is seeking nominations for membership on the HICPAC. The HICPAC consists of 14 experts in fields including but not limited to, infectious diseases, infection prevention, healthcare epidemiology, nursing, clinical microbiology, surgery, hospitalist medicine, internal medicine, epidemiology, health policy, health services research, public health, and related medical fields. Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based on expertise in the fields of infectious diseases, infection prevention, healthcare epidemiology, nursing, environmental and clinical microbiology, surgery, internal medicine, and public health. Federal employees will not be considered for membership. Members may be invited to serve for four-year terms. Selection of members is based on candidates' qualifications to contribute to the accomplishment of HICPAC objectives *https://www.cdc.gov/hicpac/.*

**DATES:** Nominations for membership on the HICPAC must be received no later than September 17, 2021. Packages received after this time will not be considered for the current membership cycle.

**ADDRESSES:** All nominations should be mailed to HICPAC, Division of Healthcare Quality Promotion (DHQP), National Center for Emerging Zoonotic Infectious Diseases (NCEZID), CDC, l600 Clifton Road NE, Mailstop H16–3, Atlanta, Georgia 30329–4027, emailed (recommended) to *hicpac@cdc.gov,* or faxed to (404) 639–4043.

**FOR FURTHER INFORMATION CONTACT:** Koo-Whang Chung, MPH, HICPAC, DHQP, NCEZID, CDC, l600 Clifton Road, NE, Mailstop H16–3, Atlanta, Georgia 30329–4027; *hicpac@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees (SGEs), requiring the filing of financial disclosure reports at the beginning and annually during their terms. CDC reviews potential candidates for HICPAC membership each year and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in July 2022, or as soon as the HHS selection process is completed. Please note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year. Candidates should submit the following items:

■ Current curriculum vitae, including complete contact information (telephone numbers, mailing address, email address); and

■ At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services. (Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, NIH, FDA, etc.).

Nominations may be submitted by the candidate him- or herself, or by the person/organization recommending the candidate.

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. 2021–05785 Filed 3–18–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–21–1238; Docket No. CDC–2021–0029]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled, The EDN Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications. This TB follow-up worksheet intends to capture domestic TB examination data for persons arriving to the U.S. with overseas TB classifications.

**DATES:** CDC must receive written comments on or before May 18, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0029 by any of the following methods:

• *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

*Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; Telephone: (404)639–7118. Email: *omb@cdc.gov.*

**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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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.
5. Assess information collection costs.

**Proposed Project**

Information Collection for The EDN Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications (OMB Control No. 0920–1238, Exp. 6/30/2021)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

CDC highly recommends that persons with overseas classification A or B for TB receive U.S. follow-up evaluations to prevent new transmission of TB. This information will assist CDC in fulfilling its regulatory responsibility to prevent the importation and spread of communicable diseases from foreign countries (42 CFR part 71) and interstate control of communicable diseases in humans (42 CFR part 70). Section 361 of the Public Health Service (PHS) Act (42 U.S.C. 264) authorizes the Secretary of Health and Human Services to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable disease from foreign countries into the United States. Under its delegated authority in 42 CFR parts 70 and 71, the Division of Global Migration and Quarantine (DGMQ) works to fulfill this responsibility through numerous activities that include monitoring the arrival of persons with Class A and Class B tuberculosis (TB) conditions and coordinating domestic follow-up examinations to prevent new transmission of TB in the United States.

The Secretary of Health and Human Services also has the legal authority to establish regulations outlining the requirements for the medical examination of aliens before they may be admitted into the United States. This authority is provided under Section 212(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)) and Section 325 of the Public Health Service Act 42 U.S.C. 252. These regulations are codified in 42 CFR part 34, which establish requirements that determine whether aliens can be admitted into the United States, which includes health examinations when aliens attempt to adjust status to lawful permanent residents.

The TB follow-up worksheet is designed to capture U.S. TB examination data for newly arriving persons to the U.S. with overseas classification A and B for TB. The information collected by the TB follow-up worksheet will provide a method of performing several TB prevention activities, both international and domestic in nature.

The U.S. foreign-born population had the highest incidence of TB compared to the U.S. non-foreign-born population. CDC strongly recommends incoming persons receive follow-up examinations for TB in the U.S. This data collection will facilitate the methodical collection of TB follow-up outcome data to monitor and track persons with overseas classification A and B for TB and will assist in the national effort to prevent new transmission of TB. To accurately determine rates of TB, recent U.S. arrivals receive domestic follow-up evaluations. U.S. health departments will provide domestic follow-up outcome information to CDC. Without this data, DGMQ will not have a method of tracking and monitoring newly arrived persons with overseas classification A or B for TB. DGMQ will use information reported on the worksheet to ensure that TB programs are effectively tracking new foreign arrivals and coordinating follow-up evaluations with local clinicians. To monitor and evaluate domestic TB program performance, CDC needs to collect data on all elements of TB domestic follow-up evaluations including chest x-rays, diagnoses, and U.S. treatment outcomes.

The Division of Global Migration and Quarantine (DGMQ) staff along with other federal partners will also use this information to evaluate overseas panel physician performance and overseas prevention activities. To evaluate panel physician performance and overseas TB prevention activities, CDC needs to know the results of domestic chest x-rays (CXR), CXR comparison sputum smears and cultures, and TB diagnoses along with domestic reviews of overseas treatment.

There are no costs to respondents except their time to complete the questionnaires. The annualized burden for this data collection is 2,322 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| EDN data entry staff at state and local health departments. | The EDN Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications. | 1,548 | 3 | 30/60 | 2,322 |
| Total | | | | | 2,322 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021–05762 Filed 3–18–21; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Healthcare Infection Control Practices Advisory Committee (HICPAC); Correction

Notice is hereby given of a change in the meeting of the Healthcare Infection Control Practices Advisory Committee (HICPAC); March 4, 2021, 9:00 a.m. to 3:00 p.m., EST in the original FRN.

The teleconference was published in the **Federal Register** on January 14, 2021, Volume 86, Number 9, pages 3155–3156.

The teleconference is being corrected to update the meeting time and should read as follows:

*DATE:* The meeting will be held on March 4, 2021, from 1:00 p.m. to 3:00 p.m., EST.

**FOR FURTHER INFORMATION CONTACT:** Koo-Whang Chung, M.P.H., HICPAC, Division of Healthcare Quality Promotion, National Center for Emerging Zoonotic Infectious Diseases, CDC, 1600 Clifton Road NE, Mailstop H16–3, Atlanta, Georgia 30329–4027, telephone (404) 498–0730; *HICPAC@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021–05784 Filed 3–18–21; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Interagency Committee on Smoking and Health (ICSH); Notice of Charter Renewal

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of charter renewal.

**SUMMARY:** This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Interagency Committee on Smoking and Health (ICSH), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through March 20, 2023.

**FOR FURTHER INFORMATION CONTACT:** Kathryn Gallagher, Designated Federal Officer, Interagency Committee on Smoking and Health (ICSH), Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road NE, Mailstop S107–7, Atlanta, Georgia 30329–4027, telephone (404) 639–6358; *KGallagher@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021–05786 Filed 3–18–21; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Advisory Council for the Elimination of Tuberculosis (ACET); Notice of Charter Renewal

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of charter renewal.

**SUMMARY:** This gives notice under the Federal Advisory Committee Act of October 6, 1972, that the Advisory Council for the Elimination of Tuberculosis (ACET), Centers for Disease Control and Prevention, Department of Health and Human Services, has been renewed for a 2-year period through March 15, 2023.

**FOR FURTHER INFORMATION CONTACT:** CAPT Deron Burton, M.D., J.D., M.P.H., Designed Federal Officer, Advisory Council for the Elimination of Tuberculosis (ACET), Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road NE, Mailstop USB–6, Atlanta, Georgia 30329–4027, telephone (404) 639–1506; *DBurton@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and

Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021–05783 Filed 3–18–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–21–21DS; Docket No. CDC–2021–0026]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on Lighting Interventions for Improving the Health, Safety, and Well-Being of Underground Mineworkers. The purpose of this information collection is to examine the effect of human centric lighting (HCL) interventions on circadian disruption (CD) and well-being in underground mineworkers via survey administration and biometric data collection.

**DATES:** Written comments must be received on or before May 18, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0026 by any of the following methods:

- *Federal eRulemaking Portal:* Regulation.gov. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov*.

**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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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.

5. Assess information collection costs.

**Proposed Project**

Pre-shift Lighting Interventions to Improve Miner Safety and Well-being—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

The National Institute for Occupational Safety and Health seeks a two-year approval from the Office of Management and Budget (OMB) to collect information needed to develop strategies and guidance to improve the safety, health, and well-being of underground coal and metal shiftworkers in the U.S. mining industry. Light has both visual and non-visual impacts on the human body, enabling us to visually perceive the world, and non-visually experience circadian entrainment and acute effects that include alertness, concentration, and performance on cognitive tasks. Hence, light drives our fundamental physiological functioning.

It is not surprising that underground miners have significant reductions in exposure to daylight—especially those miners working shifts. This lacking exposure can lead to fatigue and circadian disruption (CD) that can result in sleep loss and reduced alertness. This increases the risk of accidents, and can lead to health problems that include obesity, diabetes, and cancer.

This study will evaluate the impacts of blue and red-light treatment at the beginning of the work shift on task performance, sleepiness and alertness, subjective well-being, sleep efficiency and circadian rhythms in underground mine workers. A 2x2 randomized crossover, mixed design will be used to test the efficacy and acceptability an HCL intervention using light-emitting eyewear delivered to shift workers over a two-year study period. A cross-over design has a significant advantage because the subjects serve as their own control, which serves to minimize variations caused by circadian phase differences and sleep patterns of the individual participants. The other advantages include greater sample size efficiency with randomization of treatment order, and all subjects will receive all the treatments. Participants will be divided between coal and metal miners, and will be those who regularly work the 1st, 2nd and 3rd shifts at one underground coal and one underground metal mine.

NIOSH researchers will visit one underground coal mine and one underground metal mine to obtain informed consent from volunteer mineworkers to conduct an intervention study and administer both electronic and paper and pencil surveys. Before beginning the study, the respondents will provide their informed consent to participate, be given an overview of the demographic information that will be collected and will be instructed how to

properly wear the lighted eyewear and how to use the actigraphy device. Next, participants will be asked to complete six short surveys: (1) Demographic information; (2) the Checklist of Individual Strengths; (3) the Karolinska Sleepiness Scale (KSS); (4) the Munich Chronotype Questionnaire; (5) the Pittsburgh Sleep Quality Index (PSQI); (6) a shiftwork disorder screening; (7) the Lighted Eyeglasses Intervention Acceptability Survey, and (8) the NASA Psychomotor Vigilance Test (PVT). They will also be asked to log caffeine intake and sleep.

Intervention lighting doses will be administered via commercially available lightweight, light-emitting glasses during the nonworking periods of pre-shift. Each participant will experience two lighting interventions: Treatment A is dim red light (10 lx, 3000 K, the placebo control), and treatment B is blue-enriched, polychromatic lighting, the treatment intervention. For each study group, half of the subjects will first experience the blue, and half will first experience the red-light exposure during a three-week experimental phase. After a two-week washout period designed to minimize carryover or residual learning effects from the prior treatments, subjects will experience the lighting treatment condition they did not yet experience for another three-week period. While wearing lighted eyewear the participants will evaluate comfort, glare and acceptability of the eyewear, while the KSS, the PSQI, and the NASA PVT will be re-administered at various intervals throughout the course of the study.

The total number of responses for each data collection instrument are indicated in the estimated annualized burden hours table below. Survey data will be collected during pre-shift periods and at home on working days and at home on non-working days. Time for data collection at the beginning of the shift will be no more than 25 minutes. NIOSH researchers will collect data at participating sites in above ground facilities on working days. Participants will also complete brief caffeine and sleep logs and wear an actigraphy wristband that records activity and sleep patterns, and light/dark exposure while at home. At various intervals of the study for a total of 12 occasions, participants will swallow a remote temperature monitoring pill to assess circadian rhythms in core body temperature. It is estimated that at-home data collection time will be no more than five minutes per participant.

This data collection will occur within a two-year period beginning after OMB approval and is designed to gather information not previously available. This lighting intervention with these data collection instruments is not being used in any other research in the mining industry. Potential impacts of this project include improvement of the health, safety, and well-being of underground mineworkers by reducing fatigue and CD through new recommendations and HCL-interventions. This project will also answer several research questions that will help establish the efficacy of the new HCL interventions so that they could be commercialized by mine lighting companies and used by underground coal and metal mining companies. The total estimated annualized burden hours are 910. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| Underground Coal and Metal Mineworkers. | Informed consent | 90 | 1 | 10/60 | 15 |
| Underground Coal and Metal Mineworkers. | Demographics | 90 | 1 | 1/60 | 2 |
| Underground Coal and Metal Mineworkers. | Checklist of Individual Strengths | 90 | 1 | 2/60 | 3 |
| Underground Coal and Metal Mineworkers. | Karolinska Sleepiness Scale | 90 | 36 | 1/60 | 54 |
| Underground Coal and Metal Mineworkers. | Lighted Eyewear | 90 | 2 | 2/60 | 6 |
| Underground Coal and Metal Mineworkers. | Lighted Eyeglasses Intervention Acceptability Survey. | 90 | 2 | 1/60 | 3 |
| Underground Coal and Metal Mineworkers. | Munich Chronotype Questionnaire | 90 | 1 | 5/60 | 8 |
| Underground Coal and Metal Mineworkers. | Pittsburgh Sleep Quality Index | 90 | 4 | 10/60 | 60 |
| Underground Coal and Metal Mineworkers. | Psychomotor Vigilance Test | 90 | 36 | 6/60 | 324 |
| Underground Coal and Metal Mineworkers. | Shiftwork Disorder Screening | 90 | 1 | 8/60 | 12 |
| Underground Coal and Metal Mineworkers. | Actigraphy don and remove | 90 | 49 | 3/60 | 221 |
| Underground Coal and Metal Mineworkers. | Caffeine log | 90 | 49 | 1/60 | 74 |
| Underground Coal and Metal Mineworkers. | Core body temperature pill—open package and swallow. | 180 | 12 | 3/60 | 54 |
| Underground Coal and Metal Mineworkers. | Sleep log | 180 | 49 | 1/60 | 74 |
| Total | | | | | 910 |

**Jeffrey M. Zirger,**
*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021–05764 Filed 3–18–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[Document Identifier: CMS–29, CMS–437, CMS–10185 and CMS–10452]**

### Agency Information Collection Activities: Proposed Collection; 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 (the 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 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates 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 must be received by May 18, 2021.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted 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. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number_, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

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.html.*

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786–4669.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–29 Verification of Clinic Data—Rural Health Clinic Form and Supporting Regulations
CMS–437 Psychiatric Unit Criteria Work Sheet
CMS–10185 Medicare Part D Reporting Requirements
CMS–10452 CMS Identity Management (IDM) System

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. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-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.

**Information Collection**

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Verification of Clinic Data—Rural Health Clinic Form and Supporting Regulations; *Use:* The form is utilized as an application to be completed by suppliers of Rural Health Clinic (RHC) services requesting participation in the Medicare program. This form initiates the process of obtaining a decision as to whether the conditions for certification are met as a supplier of RHC services. It also promotes data reduction or introduction to and retrieval from the Automated Survey Process Environment (ASPEN) and related survey and certification databases by the CMS Regional Offices. Should any question arise regarding the structure of the organization, this information is readily available. *Form Number:* CMS–29 (OMB control number 0938–0074); *Frequency:* Occasionally (initially and then every six years); *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 1,887; *Total Annual Responses:* 5,661; *Total Annual Hours:* 1,269. (For policy questions regarding this collection contact Shonte Carter at 410–786–3532.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Psychiatric Unit Criteria Work Sheet; *Use:* Certain specialty hospitals and hospital specialty distinct-part units may be excluded from the Inpatient Medicare Prospective Payment System (IPPS) and be paid at a different rate. These specialty hospitals and distinct-part units of hospitals include Inpatient Rehabilitation Facilities (IRFs) units, Inpatient Rehabilitation Facilities (IRFs) hospitals and Inpatient Psychiatric Facilities (IPFs).

CMS regulations at 42 CFR 412.20 through 412.29 describe the criteria under which these specialty hospitals and specialty distinct-part hospital units are excluded from the IPPS. Form CMS–437 is used by Inpatient Psychiatric Facilities (IPFs) to attest to meeting the necessary requirements that make them exempt for receiving payment from Medicare under the IPPS. These IPFs must use CMS–437 to attest that they meet the requirements for IPPS exempt status prior to being placed into excluded status. The IPFs must re-attest to meeting the exclusion criteria annually. *Form Number:* CMS–437 (OMB control number: 0938–0358); *Frequency:* Annually; *Affected Public:* Private sector—Business or other for-profits; *Number of Respondents:* 1,598; *Total Annual Responses:* 1,598; *Total Annual Hours:* 1,732. (For policy questions regarding this collection

contact Caroline Gallaher at 410–786–8705.)

3. *Type of Information Collection Request:* Revision of a previously approved collection;

*Title of Information Collection:* Medicare Part D Reporting Requirements; *Use:* Section 1860D–12(b)(3)(D) of the Act provides broad authority for the Secretary to add terms to the contracts with Part D sponsors, including terms that require the sponsor to provide the Secretary with information as the Secretary may find necessary and appropriate. Pursuant to our statutory authority, we codified these information collection requirements for Part D sponsors in regulation at 42 CFR 423.514(a).

Data collected via the Medicare Part D reporting requirements will be an integral resource for oversight, monitoring, compliance, and auditing activities necessary to ensure quality provision of the Medicare Prescription Drug Benefit to beneficiaries. For all reporting sections (Enrollment and Disenrollment, Medication Therapy Management (MTM) Programs, Grievances, Improving Drug Utilization Review Controls, Coverage Determinations and Redeterminations, and Employer/Union Sponsored Sponsors), data are reported electronically to CMS. The data collected via the MTM and Grievances reporting sections are used in the Medicare Part C and D Star Ratings and Display Measures. The other reporting sections' data are analyzed for program oversight to ensure the availability, accessibility, and acceptability of sponsors' services, such as coverage determinations and appeals processes, and opioid safety edits at the time of dispensing. *Form Number:* CMS–10185 (OMB control number: 0938–0992); *Frequency:* Yearly; *Affected Public:* Business or other for-profits; *Number of Respondents:* 814; *Total Annual Responses:* 12,575; *Total Annual Hours:* 16,463. (For policy questions regarding this collection contact Chanelle Jones at 410–786–8008).

4. *Type of Information Collection Request:* Extension of a previously approved

collection; *Title of Information Collection:* CMS Identity Management (IDM) System; *Use:* HIPAA regulations require covered entities to verify the identity of the person requesting Personal Health Information (PHI) and the person's authority to have access to that information. Per the HIPAA Security Rule, covered entities, regardless of their size, are required under Section164.312(a)(2)(i) to ''assign a unique name and/or number for identifying and tracking user identity.'' A 'user' is defined in Section 164.304 as a ''person or entity with authorized access''. Accordingly, the Security Rule requires covered entities to assign a unique name and/or number to each employee or workforce member who uses a system that receives, maintains or transmits electronic PHI, so that system access and activity can be identified and tracked by user. This pertains to workforce members within health plans, group health plans, small or large provider offices, clearinghouses and beneficiaries.

The information collected will be gathered and used solely by CMS, approved contractor(s), and state health insurance exchanges to prove the identity of an individual requesting electronic access to CMS protected information or services. Information confidentiality will conform to the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Federal Information Security Management Act (FISMA) requirements. Respondents may also access CMS' Terms of Service and Privacy Statement on the CMS Portal and IDM websites.

CMS has moved from this centralized on premise model for enterprise identity management to a cloud-based solution, IDM, with multiple products providing specialized services: Okta Identity as a Service (IDaaS), which includes Multi-Factor Authentication (MFA) services; Experian Remote Identity Proofing (RIDP) services; and Cloud Computing Services-Amazon Web Services/Information Technology Operations (CCS–AWS/ITOps) Hub Hosting. In order to prove the identity of an individual requesting electronic access to CMS protected information or services, IDM (leveraging Experian Precise ID RIDP services) will collect a core set of attributes about that individual. *Form Number:* CMS–10452 (OMB control number: 0938–1236); *Frequency:* Yearly; *Affected Public:* Individuals and Households; *Number of Respondents:* 560,000; *Total Annual Responses:* 560,000; *Total Annual Hours:* 186,667. (For policy questions regarding this collection contact Malachi Robinson at 410–786–1849).

Dated: March 16, 2021.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2021–05809 Filed 3–18–21; 8:45 am]

BILLING CODE 4120–01–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 *April 19, 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. This notice replaces the notice that published on February 26, 2021 (86 FR 11779) and was subsequently withdrawn on March 9 (86 FR 13565). *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: March 15, 2021.

**William N. Parham, III,**

*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2021–05683 Filed 3–18–21; 8:45 am]

**BILLING CODE 4120–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Evaluation of Project Connect (New Collection)

**AGENCY:** Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

**ACTION:** Request for Public Comment.

**SUMMARY:** The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) is proposing a new information collection to assess the implementation of Project Connect, a comprehensive home visitation intervention that provides home-based services and treatment to child welfare-involved, substance-affected families with children and adolescents ages 0 to 17.

**DATES:** *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

**ADDRESSES:** Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *OPREinfocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

**SUPPLEMENTARY INFORMATION:** *Description:* The proposed information collection activity will assess the implementation of Project Connect, a comprehensive home visitation intervention that provides home-based services and treatment to child welfare-involved, substance-affected families with children and adolescents ages 0 to 17. The program aims to strengthen, and address the complex needs of, substance-affected families by providing intensive, long-term services that address issues of unhealthy parental substance use and help parents recover while keeping children safe. It focuses on maintaining children safely in their homes (preventing admission to care) or facilitating reunification when children have been placed in out-of-home care.

The implementation study will support a planned effectiveness evaluation that will rely on administrative data to examine the impact of the program on child welfare outcomes. These information collection activities will take place over the course of five site visits to the program and child welfare agency that are participating in the study. Information collection activities include interviews with program and child welfare agency administrators, focus groups with program and child welfare agency staff, interviews and focus groups with participants, interviews with other program stakeholders, and observations of program staff meetings, program delivery, and judicial hearings. Site visits will also include direct observations of staff delivery of the program, program staff meetings, and relevant judicial hearings/activities for program families.

This evaluation is part of a larger project to help ACF build the evidence base in child welfare through rigorous evaluation of programs, practices, and policies. The activities and products from this project will contribute to evidence building in child welfare and help to determine the effectiveness of a substance use program on child welfare outcomes.

*Respondents:* Semi-structured interviews will be completed with agency and program administrators, parents who are participating in the program, parents receiving services as usual, and other program stakeholders. Focus groups will be conducted with agency and program staff and parents who are participating in the program and parents receiving services as usual.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents (total over request period) | Number of responses per respondent (total over request period) | Average burden per response (in hours) | Total burden (in hours) | Annual burden (in hours) |
|---|---|---|---|---|---|
| Interview Guide for Administrators (Project Connect, Child Welfare Agency, and Child Welfare Central Referral Unit) | 14 | 1 | 1 | 14 | 5 |
| Focus Group Guide for Staff (Project Connect and Child Welfare Agency Staff) | 24 | 1 | 1.50 | 36 | 12 |
| Interview Guide for Other Stakeholders (Behavioral Health and Judicial Stakeholders) | 12 | 1 | 1 | 12 | 4 |
| Interview Guide for Families | 16 | 1 | 1 | 16 | 5 |
| Focus Group Guide for Families | 24 | 1 | 1.5 | 36 | 12 |

*Estimated Total Annual Burden Hours:* 38.

*Comments:* The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Authority:** 42 U.S.C. 676.

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2021–05774 Filed 3–18–21; 8:45 am]

BILLING CODE 4184–25–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; OCSE Stafford Act Flexibilities Request Form (New Collection)

**AGENCY:** Office of Child Support Enforcement, Administration for Children and Families, HHS.

**ACTION:** Request for public comment.

**SUMMARY:** The Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), seeks approval of a standardized request form to collect information from state and tribal title IV–D child support agencies requesting administrative flexibilities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (the ''Stafford Act''), due to the COVID–19 pandemic.

**DATES:** *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

**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.

**SUPPLEMENTARY INFORMATION:**

*Description:* Due to the exceptional impact of the COVID–19 pandemic, state and tribal agencies operating child support programs under title IV–D of the Social Security Act have faced significant operational and other challenges in providing critical child support services to families. Section 301 of the Stafford Act, 42 U.S.C. 5141, provides that ''Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State [or Indian tribal government] or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.'' To communicate that child support agencies may request relief under the Stafford Act, on May 28, 2020, OCSE published Dear Colleague Letter 20–04: Flexibilities for State and Tribal Child Support Agencies during COVID–19 Pandemic. OCSE seeks approval of a standardized request form to collect information from state and tribal IV–D agencies requesting Stafford Act administrative flexibilities, due to the COVID–19 pandemic and according to OCSE Dear Colleague Letter 20–04.

*Respondents:* State and tribal agencies administering a child support program under title IV–D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

| Instrument | Total number of respondents | Total number of responses per respondent | Average burden hours per response | Total burden hours | Annual burden hours |
|---|---|---|---|---|---|
| OCSE Stafford Act Flexibilities Request Form | 114 | 3 | 1 | 342 | 114 |

*Estimated Total Annual Burden Hours:* 114.

**Authority:** 42 U.S.C. 5141.

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2021–05780 Filed 3–18–21; 8:45 am]

**BILLING CODE 4184–41–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Evaluation of the Child Welfare Capacity Building Collaborative (New Collection)

**AGENCY:** Children's Bureau, Administration for Children and Families; HHS.

**ACTION:** Request for public comment.

**SUMMARY:** The Children's Bureau, Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to collect data for an evaluation of the services provided to child welfare jurisdictions and Court Improvement Programs (CIP) by the Child Welfare Capacity Building Collaborative. This study uses instruments that build on previously approved OMB instruments, including satisfaction surveys, assessment tools, interview protocols, and service-specific feedback forms (OMB #0970–0484, expiration 11/30/22; OMB #0970–0494, expiration 2/28/23).

**DATES:** *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

**ADDRESSES:** Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

*Description:* The Capacity Building Collaborative includes three centers (Center for States, Center for Tribes, Center for Courts) funded by the Children's Bureau to provide national child welfare expertise and evidence-informed training and technical assistance services to state, tribal, and U.S. territorial public child welfare agencies and CIP. The Centers offer services including Web-based content and resources, product development and dissemination, self-directed and group-based training, virtual learning and peer networking events, and tailored consultation, coaching, and facilitation (''tailored services''). Centers' services will be evaluated by Center-specific evaluations and a cross-Center evaluation. *The cross-Center evaluation* will examine collaboration across and within Centers; how well Centers have established themselves nationally, and how the child welfare field perceives their expertise, credibility, and value; what services are delivered by the Centers, and how well they are defined; service recipient satisfaction with service quality; child welfare jurisdiction and federal staff's experiences of assessment and work planning services offered by Centers; effectiveness of Center services; how Centers apply a common ''change management approach'' in their work; what affects child welfare jurisdiction engagement with and use of Center services; and the costs of Center services. *The Center for States' evaluation* consists of data collection around two research questions and five sub-studies. The research questions focus on understanding usefulness, relevance, and satisfaction from a stakeholder perspective, as well as outcomes of all services, with a focus on tailored services. The sub-studies assess organizational capacities, child welfare policy and practice, and outcomes for children and families. *The Center for Tribes' evaluation* will examine the extent to which the Center provides effective, culturally responsive services that meet the needs of tribal child welfare programs; the satisfaction of service recipients with service quality; and service outcomes for tribal child welfare programs and stakeholders. *The Center for Courts' evaluation* will assess satisfaction with and effectiveness of service delivery; progress toward meeting Center goals and the needs of CIP to promote continuous quality improvement (CQI); and increased knowledge, collaboration, and capacity to improve court performance and child and family outcomes.

Proposed *cross-Center evaluation data sources* for this effort include (1) a survey to assess child welfare staff perceptions of the outcomes of intensive [1] courses of tailored services and their satisfaction with those services, completed by a project team lead with input from the rest of the team; (2) a survey to assess child welfare staff perceptions of the outcomes of brief courses of tailored services, for use with tribes and CIP; [2] (3,4,5) a leadership interview protocol administered to all state/territory child welfare directors and to tribal child welfare directors and CIP coordinators receiving services from the Centers; (6) a collaboration and communication survey administered twice to Center staff/contractors and their federal partners to understand whether factors that support collaboration are in place and improving over time; (7) a survey to assess whether collaborative teams for specific projects and/or communication teams exhibit signs of healthy collaboration; and (8) a survey to assess child welfare jurisdiction staff satisfaction with the assessment and work planning services provided by Centers.

*Center for States' data sources* include (1) a registration form for participation in virtual events; (2,3) a survey to gather feedback from participants in brief service events of 100+ registrants, and a follow-up survey to measure outcomes 3 months later; (4) a short poll for use by participants in brief service events with fewer than 100 registrants; (5) a peer learning group survey to gather feedback to inform program planning; (6) a survey to measure satisfaction with learning experiences; (7) a protocol for interviewing staff in jurisdictions receiving intensive services; (8) a protocol for use with state project leads to capture feedback following meetings associated with intensive projects, for use in a fidelity study; (9) a tailored services brief project survey to inform outcome reporting and CQI; (10) a survey of participants in peer-to-peer events to inform project planning; and (11) a jurisdiction interview protocol for a longitudinal ethnographic sub-study of several intensive projects. *Center for Tribes' data sources* include (1) a form for tribes requesting Center services; (2) an inquiry form for Center staff to collect information on services the tribe requests; (3) a demographic survey to provide information about the tribal child welfare program; (4) a ''needs and fit exploration tool-phase 1'' to gather information to decide if the tribe's request meets criteria for services; (5) a

[1] Intensive services typically last 9 or more months and involve 20 or more hours of service.

[2] The Center for States will administer its own, similar survey for use with state respondents.

''needs and fit exploration tool-phase 2'' for use when meeting with tribes whose service request has been approved; (6,7) a Tribal Child Welfare Leadership Academy Self-Assessment (pre- and post-training versions); and (8) a feedback survey to measure satisfaction with Center webinars. *Center for Courts' data sources* include (1) a survey to assess the usefulness of CQI workshops and perceived knowledge gained from participating in them; (2) a survey to assess participant satisfaction with Judicial and Attorney Academies and perceived knowledge gained; and (3) a pre-post survey to assess knowledge gained from the Academies and to provide exposure to material tailored to the participant's knowledge.

*Respondents:* Respondents to the data collection instruments will include (1) child welfare and judicial professionals that use the Centers' web pages, products, and online courses; participate in virtual or in-person trainings or peer events; and/or receive brief or intensive, tailored services from the Centers; (2) state child welfare directors, tribal child welfare directors, and CIP coordinators receiving services from the Centers; (3) directors, staff, and consultants of the three Capacity Building Centers; and (4) federal staff.

**Annual Burden Estimates**

The proposed data collection will span 3 years.

| Instrument | Total number of respondents | Total number of responses per respondent | Average burden hours per response | Total burden hours | Annual burden hours |
|---|---|---|---|---|---|
| Cross-Center: Outcomes of and Satisfaction with Tailored Services Survey (Intensive projects)—team lead's completion of survey | 120 | 1 | 0.25 | 30 | 10 |
| Cross-Center: Outcomes of and Satisfaction with Tailored Services Survey (Intensive projects)—input from other members of the team | 576 | 1 | 0.17 | 98 | 33 |
| Cross-Center: Outcomes of Tailored Services Survey (Brief projects) | 150 | 1 | 0.05 | 8 | 3 |
| Cross-Center: Leadership Interview—States and Territories | 43 | 2 | 1 | 86 | 29 |
| Cross-Center: Leadership Interview—CIPs | 37 | 2 | 1 | 74 | 25 |
| Cross-Center: Leadership Interview—Tribes | 14 | 2 | 1.25 | 35 | 12 |
| Cross-Center: Collaboration and Communication Survey—Center staff | 200 | 1 | 0.22 | 44 | 15 |
| Cross-Center: Collaboration Project Team Survey | 120 | 1 | 0.23 | 28 | 9 |
| Cross-Center: Assessment and Work Planning Survey—Jurisdiction Staff | 130 | 1 | 0.15 | 20 | 7 |
| Center for States: Event Registration | 13,500 | 1 | 0.03 | 405 | 135 |
| Center for States: Brief Event Survey | 1,500 | 1 | 0.1 | 150 | 50 |
| Center for States: Event Follow-up Survey | 1,500 | 1 | 0.08 | 120 | 40 |
| Center for States: Event Poll | 300 | 1 | 0.03 | 9 | 3 |
| Center for States: Peer Learning Group Survey | 300 | 1 | 0.33 | 99 | 33 |
| Center for States: Learning Experience Satisfaction Survey | 975 | 1 | 0.33 | 322 | 107 |
| Center for States: Jurisdiction Interview Protocol | 90 | 1 | 1 | 90 | 30 |
| Center for States: Fidelity Study: State Lead Debrief Questions | 108 | 1 | 0.25 | 27 | 9 |
| Center for States: Tailored Services Brief Project Survey | 150 | 1 | 0.13 | 20 | 7 |
| Center for States: Peer to Peer Event Survey | 60 | 1 | 0.08 | 5 | 2 |
| Center for States: Longitudinal Ethnographic Sub-study Jurisdiction Interview | 45 | 2 | 1 | 90 | 30 |
| Center for Tribes: Request for Services Form | 100 | 1 | 1 | 100 | 33 |
| Center for Tribes: Inquiry Form | 200 | 1 | 0.08 | 16 | 5 |
| Center for Tribes: ICW Demographic Survey | 60 | 1 | 1.75 | 105 | 35 |
| Center for Tribes: Needs and Fit Exploration Tool Phase 1 | 150 | 1 | 2 | 300 | 100 |
| Center for Tribes: Needs and Fit Exploration Tool Phase 2 (Process Narrative) | 80 | 1 | 3 | 240 | 80 |
| Center for Tribes: Tribal Child Welfare Leadership Academy Pre-Training Self-Assessment | 240 | 1 | 0.5 | 120 | 40 |
| Center for Tribes: Tribal Child Welfare Leadership Academy Post-Training Self-Assessment | 240 | 1 | 0.5 | 120 | 40 |
| Center for Tribes: Universal Services Webinar Feedback Survey | 400 | 1 | 0.08 | 32 | 11 |
| Center for Courts: CQI Workshop Feedback Survey | 240 | 1 | 0.07 | 17 | 6 |
| Center for Courts: Academy Feedback Survey | 600 | 1 | 0.07 | 42 | 14 |
| Center for Courts: Pre/Post Academy Assessment | 600 | 2 | 0.22 | 264 | 88 |

*Estimated Total Annual Burden Hours:* 1,041.

*Comments:* The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the

information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Authority:** Sec. 5106, Pub. L. 111–320, the Child Abuse Prevention and Treatment Act Reauthorization Act of 2010, and titles IV–B and IV–E of the Social Security Act.

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2021–05781 Filed 3–18–21; 8:45 am]

**BILLING CODE 4184–44–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Human Services Programs in Rural Contexts Study

**AGENCY:** Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

**ACTION:** Request for public comment.

**SUMMARY:** The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services is proposing to collect data on the challenges and unique opportunities of administering human services programs in rural contexts. Case studies of 12 communities, in combination with analysis of administrative data and qualitative comparative analysis of the qualitative data, will provide ACF with a rich description of human services programs in rural contexts and provide ACF opportunities for strengthening human services programs' capacity to promote the economic and social wellbeing of individuals, families, and communities in rural contexts.

**DATES:** *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

**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.

**SUPPLEMENTARY INFORMATION:**

*Description:* ACF proposes to conduct key informant interviews during site visits to 12 rural communities. While ACF intends to conduct on-site visits, if the current COVID–19 pandemic makes it too difficult to travel safely, we will conduct these interviews virtually. This study will involve four data collection instruments:

- *Site Visit Planning Template.* Each Project Director (or their designee) will complete a Site Visit Planning Template to assist the study team in scheduling site visit interviews.
- *Three Site Visit Discussion Guides.* To systematically capture data on challenges and unique opportunities, the study team will conduct interviews with (1) project directors and leaders from human services organizations, (2) staff from the human services and partner organizations, and (3) staff from nonprofit and partner organizations that support individuals who utilize human services.

*Respondents:* Human services project directors and leadership staff, human services program staff, and staff from nonprofit organizations and partners that provide support to individuals who utilize human services.

ANNUAL BURDEN ESTIMATES

| Instrument | Number of respondents (total over request period) | Number of responses per respondent (total over request period) | Avg. burden per response (in hours) | Total burden (in hours) | Annual burden (in hours) |
|---|---|---|---|---|---|
| In-Person Site Visit Planning Template (Instrument 1a); or Virtual Site Visit Planning Template (Instrument 1b) | 12 | 1 | 2 | 24 | 12 |
| Project Directors and Leaders Site Visit Discussion Guide (Instrument 2) | 60 | 1 | 2 | 120 | 60 |
| Staff Site Visit Discussion Guide (Instrument 3) | 108 | 1 | 1.5 | 162 | 81 |
| Nonprofit or Partner Organizations Site Visit Discussion Guide (Instrument 4) | 72 | 1 | 1 | 72 | 36 |

*Estimated Total Annual Burden Hours:* 189.

**Authority:** 42 U.S.C. 613, 42 U.S.C. 1397, 42 U.S.C. 711, and 42 U.S.C. 603(a)(2).

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2021–05771 Filed 3–18–21; 8:45 am]

**BILLING CODE 4184–09–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

**[OMB No. 0970–0449]**

### Proposed Information Collection Activity; Renewal of the Low Income Home Energy Assistance Program (LIHEAP) Performance Measures

**AGENCY:** Office of Community Services, Administration for Children and Families, HHS.

**ACTION:** Request for public comment.

**SUMMARY:** The Administration for Children and Families (ACF) is requesting reinstatement of the Low Income Home Energy Assistance Program (LIHEAP) Performance Measures (Office of Management and Budget (OMB) #0970–0449, expiration date March 31, 2021) with changes. Changes include a single addition of a field to capture a potential additional source of funding, and other minor changes to the most recent version of this form.

**DATES:** *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

**ADDRESSES:** Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov*. Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

*Description:* The ACF Office of Community Services (OCS) within the U.S. Department of Health and Human Services (HHS) administers the Low Income Home Energy Assistance Program (LIHEAP) at the federal level. The *LIHEAP Performance Data Form (LPDF)* is an annual report in response to Section 2610(b) of the LIHEAP statute (42 U.S.C. 8629(b)), which requires the Secretary of HHS to submit, no later than June 30 of each federal fiscal year, a report to Congress on LIHEAP for the prior federal fiscal year. The completeness, accuracy, consistency, and timeliness of responses to data collections are needed for HHS to do the following:

- Provide reliable and complete fiscal and household data to Congress in the Department's *LIHEAP Report to Congress* for the federal fiscal year;
- Respond to questions from the Congress, Department, OMB, White House, and other interested parties in a timely manner; and
- Report LIHEAP performance results as part of the Administration's annual Congressional Justification.

In response to the 2010 Government Accountability Office (GAO) report, *Low Income Home Energy Assistance Program—Greater Fraud Prevention Controls are Needed* (GAO–10–621), and in consideration of the recommendations issued by the LIHEAP Performance Measures Implementation Work Group, OCS required the collection and reporting of these performance measures by state LIHEAP grantees, including the District of Columbia. OMB approved the LIHEAP Performance Data Form (LPDF) in November 2014 (OMB Clearance No. 0970–0449) and approved continued collection using the form through March 31, 2021. This request will extend approval to collect information using the LPDF for another 3 years. The LPDF provides for the collection of the following LIHEAP performance measures, which are considered to be developmental as part of the LPDF:

1. The benefit targeting index for high burden households receiving LIHEAP fuel assistance;
2. The burden reduction targeting index for high burden households receiving LIHEAP fuel assistance;
3. The number of households where LIHEAP prevented a potential home energy crisis; and
4. The number of households where LIHEAP benefits restored home energy.

All state LIHEAP grantees are required to complete the LPDF data through ACF's web-based data collection and reporting system, the Online Data Collection (OLDC), which is available at GrantSolutions homepage (https://home.grantsolutions.gov/home). The reporting requirements will be described through the LIHEAP Forms and Funding Applications page (https://www.acf.hhs.gov/ocs/form/liheap-forms-and-funding-applications) of ACF's website.

The previous OMB-approved LIHEAP Grantee Survey on sources and uses of LIHEAP funds was added in 2014 to the LPDF as an addition to the LIHEAP performance data. Additional items for separately reporting LIHEAP funds appropriated by the CARES Act (Pub. L. 116–136) were added in 2020.

ACF proposes additional changes for this data collection activity. These consist of (1) adding an item for reporting previous-year Residential Energy Assistance Challenge (REACH) funds as a source; (2) reorganizing source items by appropriations source instead of by report; (3) specifying the prior-year nature of CARES Act funds; and (4) minor wording changes.

The form is divided into the following three modules to add clarity:

**Module 1. LIHEAP Grantee Survey (Required Reporting)**

Module 1 of the *LPDF* will continue to require the following data from each state for the federal fiscal year:

- Grantee information;
- Sources and uses of LIHEAP funds;
- Average LIHEAP household benefits; and
- Maximum income cutoffs for 4-person households for each type of LIHEAP assistance provided by each grantee for the fiscal year.

**Module 2. LIHEAP Performance Measures (Required Reporting)**

Module 2 of the *LPDF* will continue to require the following data from each state for the federal fiscal year:

- Grantee information;
- Energy burden targeting;
- Restoration of home energy service; and
- Prevention of loss of home energy.

**Module 3. LIHEAP Performance Measures (Optional Reporting)**

Module 3 of the LIHEAP *LPDF* will continue to voluntarily collect the following additional information from each interested grantee for the federal fiscal year:

- Average annual energy usage;
- Unduplicated number of households using supplemental heating fuel and air conditioning;
- Unduplicated number of households that had restoration of home energy service; and
- Unduplicated number of households that had prevention of loss of home energy.

LIHEAP grantees will be able to compare their own results to the results for other states, as well as to regional and national results, through the Data Warehouse of the LIHEAP Performance Management website as they manage their programs.

*Respondents:* State governments, including the District of Columbia; the largest five electricity and natural gas vendors by state; the largest ten fuel oil and propane vendors by state; and state sub-grantees.

ANNUAL BURDEN ESTIMATES

| | Number of respondents | Annual number of responses per | Average hour burden per | Annual burden hours |
|---|---|---|---|---|
| **Module 1 (Grantee Survey)** | | | | |
| State Grantees | 51 | 1 | 36 | 1,836 |
| Energy Vendors (largest 5 electric, 5 natural gas, 10 fuel oil, and 10 propane vendors per state—average) | 1,530 | 1 | 1 | 1,530 |
| **Module 2 (LIHEAP Performance Measures)** | | | | |
| State Grantees—Part II | 51 | 1 | 150 | 7,650 |
| Sub-Grantees (in states with sub-grantee managed systems)—Part II | 100 | 1 | 8 | 800 |
| Energy Vendors (largest 5 electric, 5 natural gas, 10 fuel oil, and 10 propane vendors per state—average)—Part II | *1,530 | 1 | 8.5 | 13,005 |

* (estimate).

*Estimated Total Annual Burden Hours:* 24,821.

*Comments:* The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Authority:** 42 U.S.C. 8629(b); 42 U.S.C. 8624(b); 42 U.S.C. 8623(c).

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2021–05773 Filed 3–18–21; 8:45 am]

**BILLING CODE 4184–80–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trials in Neurology.

*Date:* April 12–13, 2021.

*Time:* 12:00 p.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:* Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Rockville, MD 20852, (301) 435–6033, *rajarams@mail.nih.gov.*

(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: March 15, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05663 Filed 3–18–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Microbiology, Infectious Diseases and AIDS Initial Review Group Acquired Immunodeficiency Syndrome Research Review Committee AIDS Chartered Committee Review Meeting.

*Date:* April 14–15, 2021.

*Time:* 10:00 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40A, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40A, Rockville, MD 20852 (240) 669–5035, *robert.unfer@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: March 15, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05665 Filed 3–18–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, NIEHS, March 28, 2021, 04:00 p.m. to March 30, 2021, 04:30 p.m., National Institute of Environmental Health Science, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709 which was published in the **Federal Register** on March 05, 2021, 86 FR 12961.

This **Federal Register** Notice is being amended due to a time change in the morning open session on March 29, 2021. The new morning open session will start at 9:30 a.m. and end at 11:30 a.m. on March 29th, 2021. The meeting is partially Closed to the public.

Dated: March 15, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05669 Filed 3–18–21; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; 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 on Aging Special Emphasis Panel, COVID–19 Clinical Trials.

*Date:* April 23, 2021.

*Time:* 10:30 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Maurizio Grimaldi, MD, Ph.D. Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–496–9374, *grimaldim2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: _March 16, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05733 Filed 3–18–21; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Library of Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the 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 materials, 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:* Biomedical Informatics, Library and Data Sciences Review Committee.

*Date:* June 10–11, 2021.

*Time:* June 10, 2021, 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Time:* June 11, 2020, 10:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Contact Person:* Zoe E. Huang, MD, Chief Scientific Review Officer, Scientific Review Office, Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 500, Bethesda, MD 20892–7968, 301–594–4937, *huangz@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: March 15, 2021.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05668 Filed 3–18–21; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Research Education Program (R25 Clinical Trial Not Allowed).

*Date:* April 15, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G36, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Poonam Pegu, 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 3G36, Rockville, MD 20852, 240–292–0719, *poonam.pegu@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: March 15, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05672 Filed 3–18–21; 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, Special Topics: Bioengineering of Neuroscience and Vision Technologies and Microphysiological Systems.

*Date:* April 2, 2021.

*Time:* 2:00 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:* Robert C. Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.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.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Pharmacology, Structure-Function and Calcium Channels.

*Date:* April 13, 2021.

*Time:* 11:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Mary Custer, Ph.D., Scientific Review Officer, Center for Scientific Review National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, RFA–NS–21–006: ''Mechanisms of Pathological Spread of Abnormal Proteins in LBD and FTD (RO1 Clinical Trials Not Allowed.''

*Date:* April 13, 2021.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Inese Z. Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, RFA–NS–21–007: Mechanisms of Selective Vulnerability in LBD and FTD (R01 Clinical Trial Not Allowed).

*Date:* April 13, 2021.

*Time:* 3:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Inese Z. Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@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: March 15, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05666 Filed 3–18–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings (Parent R13 Clinical Trial Not Allowed).

*Date:* April 13–15, 2021.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40B, Rockville, MD 20892 (Virtual Meeting).

*Contact Person:* Kelly Y. Poe, Ph.D., Deputy Director, 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 3F40B, Rockville, MD 20852, (240) 669–5036, *poeky@mail.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: March 15, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05667 Filed 3–18–21; 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; Time-Sensitive Obesity review.

*Date:* April 12, 2021.

*Time:* 2:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Michele L. Barnard, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7353, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, (301) 594–8898, *barnardm@extra.niddk.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: March 16, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05738 Filed 3–18–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; 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 on Drug Abuse Special Emphasis Panel; Mechanism for Time-Sensitive Drug Abuse Research (R21 Clinical Trial Optional).

*Date:* April 14, 2021.

*Time:* 12:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Sheila Pirooznia, Ph.D., Scientific Review Officer, Division of Extramural Review, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 496–9350, *sheila.pirooznia@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: March 15, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05664 Filed 3–18–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Cancellation of Meeting

Notice is hereby given of the cancellation of the Center for Scientific Review Special Emphasis Panel, April 01, 2021, 1:00 p.m. to April 01, 2021, 4:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on March 5, 2021, 86 FR 12957.

This notice is being amended to announce that the meeting is cancelled.

Dated: March 16, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05735 Filed 3–18–21; 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: Pathophysiology of Retinopathies, Glaucoma, Tear Land Disfunction, and Other Eye Diseases.

*Date:* April 14, 2021.

*Time:* 10:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Alessandra C. Rovescalli, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm. 5205, MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Neurodevelopmental and Neurological Disorders.

*Date:* April 16, 2021.

*Time:* 10:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Samuel C Edwards, Ph.D., Chief, BDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@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: March 16, 2021.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021–05743 Filed 3–18–21; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

**[1651–0105]**

### Application To Use Automated Commercial Environment (ACE)

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments; Extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection 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 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and must be submitted (no later than May 18, 2021) to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0105 in the subject line and the agency name. Please use the following method to submit comments:

*Email.* Submit comments to: *CBP_PRA@cbp.dhs.gov.*

Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

**Overview of This Information Collection**

*Title:* Application to Use Automated Commercial Environment (ACE).

*OMB Number:* 1651–0105.

Current Actions: Extension.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Abstract:* The Automated Commercial Environment (ACE) is a trade data processing system that is replacing the Automated Commercial System (ACS), the current import system for U.S. Customs and Border Protection (CBP) operations. ACE is authorized by Executive Order 13659 which mandates implementation of a Single Window through which businesses will transmit data required by participating agencies for the importation or exportation of cargo. *See* 79 FR 10655 (February 25, 2014). ACE supports government agencies and the trade community with border-related missions with respect to moving goods across the border efficiently and securely. Once ACE is fully implemented, all related CBP trade functions and the trade community will be supported from a single common user interface.

To establish an ACE Portal account, participants submit information such as their name, their employer identification number (EIN) or social security number (SSN), and if applicable, a statement certifying their capability to connect to the internet. This information is submitted through the ACE Secure Data Portal which is accessible at: *http://www.cbp.gov/trade/automated*

*Please Note:* a CBP-assigned number may be provided in lieu of your SSN. If you have an EIN, that number will automatically be used and no CBP number will be assigned. A CBP-assigned number is for CBP use only.

There is a standalone capability for electronically filing protests in ACE. This capability is available for participants who have not established ACE Portal Accounts for other trade activities, but desire to file protests electronically. A protest is a procedure whereby a private party may administratively challenge a CBP decision regarding imported merchandise and certain other CBP decisions. Trade members can establish a protest filer account in ACE through a separate application and the submission of specific data elements includes, but is not limited to, their name; their employer identification number (EIN) or social security number (SSN); and contact information. *See* 81 FR 57928 (August 24, 2016).

*Type of Information Collection:* Application to ACE (Import)
*Estimated Number of Respondents:* 21,100
*Estimated Number of Annual Responses per Respondent:* 1
*Estimated Number of Total Annual Responses:* 21,100
*Estimated Time per Response:* .33 hours
*Estimated Total Annual Burden Hours:* 6,963

*Type of Information Collection:* Application to ACE (Export)
*Estimated Number of Respondents:* 9,000
*Estimated Number of Annual Responses per Respondent:* 1
*Estimated Number of Total Annual Responses:* 9,000
*Estimated Time per Response:* .066 hours
*Estimated Total Annual Burden Hours:* 594

*Type of Information Collection:* Application to ACE (Protest)
*Estimated Number of Respondents:* 3,750
*Estimated Number of Annual Responses per Respondent:* 1
*Estimated Number of Total Annual Responses:* 3,750
*Estimated Time per Response:* .066 hours
*Estimated Total Annual Burden Hours:* 248

Dated: March 15, 2021.

**Robert F. Altneu,**

*Director, Regulations and Disclosure Law Division, U.S. Customs and Border Protection.*

[FR Doc. 2021–05684 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID: FEMA–2021–0005; OMB No. 1660–0130]**

### Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

**DATES:** Comments must be submitted on or before May 18, 2021.

**ADDRESSES:** To avoid duplicate submissions to the docket, please use the following means to submit comments: *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2021–0005. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, 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 read the Privacy and Security Notice that is available via a link on the homepage of *www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Millicent Brown, Sr. Manager, FEMA Office of the Chief Administrative Officer, Information Management Division, at (202) 304–2291 for further information. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, Federal Emergency Management Agency (FEMA) (hereafter ''the Agency'') seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery. By qualitative feedback, we mean information that provides useful insights on perceptions and opinions but not statistical surveys that yield quantitative results that can be generalized to the population of study.

### Collection of Information

*Title:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

*Type of Information Collection:* Extension, without change, of a currently approved information collection.

*OMB Number:* 1660–0130.

*FEMA Forms:* None.

*Abstract:* The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with service; or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

*Affected Public:* Individuals or Households.

*Estimated Number of Respondents:* 1,075,000.

*Estimated Number of Responses:* 1,075,000.

*Estimated Total Annual Burden Hours:* 268,783.

*Estimated Total Annual Respondent Cost:* $10,092,802.

*Estimated Respondents' Operation and Maintenance Costs:* None.

*Estimated Respondents' Capital and Start-Up Costs:* None.

*Estimated Total Annual Cost to the Federal Government:* $2,180,168.

### Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Millicent Brown,**

*Sr. Manager, Records Management Branch, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2021–05649 Filed 3–18–21; 8:45 am]

BILLING CODE 9111–19–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–3553–EM; Docket ID FEMA–2021–0001]**

### District of Columbia; Amendment No. 2 to Notice of an Emergency Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency declaration for the District of Columbia (FEMA–3553–EM), dated January 11, 2021, and related determinations.

**DATES:** This amendment was issued February 1, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The notice of an emergency declaration for the District of Columbia is hereby amended to include reimbursement for eligible emergency protective measures among the area determined to have been adversely affected by the event declared an emergency by the President in his declaration of January 11, 2021.

The District of Columbia for reimbursement for emergency protective measures (Category B) including direct Federal assistance, at 100 percent Federal

funding. Reimbursement assistance will only be available to the extent that the District has expended the funding appropriated to it for the Presidential Inauguration.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Robert J. Fenton,**

*Acting Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–05791 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–3555–EM; Docket ID FEMA–2021–0001]**

### Oklahoma; Amendment No. 1 to Notice of an Emergency Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency declaration for the State of Oklahoma (FEMA–3555–EM), dated February 17, 2021, and related determinations.

**DATES:** This amendment was issued March 4, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this emergency is closed effective February 20, 2021.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Robert J. Fenton,**

*Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–05794 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–3554–EM; Docket ID FEMA–2021–0001]**

### Texas; Amendment No. 1 to Notice of an Emergency Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency declaration for the State of Texas (FEMA–3554–EM), dated February 14, 2021, and related determinations.

**DATES:** This amendment was issued March 4, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this emergency is closed effective February 21, 2021.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Robert J. Fenton,**

*Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–05793 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–3553–EM; Docket ID FEMA–2021–0001]**

### District of Columbia; Amendment No. 1 to Notice of an Emergency Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of an emergency declaration for the District of Columbia (FEMA–3553–EM), dated January 11, 2021, and related determinations.

**DATES:** This change occurred on January 22, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Timothy S. Pheil, of FEMA is appointed to act as the Federal Coordinating Officer for this emergency.

This action terminates the appointment of Thomas J. Fargione as Federal Coordinating Officer for this emergency.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Robert J. Fenton,**

*Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–05790 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID: FEMA–2019–0026; OMB No. 1660–0069]**

### Agency Information Collection Activities: Proposed Collection; Comment Request; National Fire Incident Reporting System (NFIRS) v5.0

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** 30-Day reinstatement notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a reinstatement, without change, of a previously approved information collection for which approval has expired. FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

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

**ADDRESSES:** Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or William Troup, Chief, United States Fire Administration-National Fire Data Center, (301) 447–1231.

**SUPPLEMENTARY INFORMATION:** The National Commission on Fire Prevention and Control conducted a comprehensive study of the Nation's fire problem and recommended to Congress actions to mitigate the fire problem, reduce loss of life and property, and educate the public on fire protection and prevention. As a result of the study, Congress enacted Public Law 93–498, the Federal Fire Prevention and Control Act of 1974, which establishes the U.S. Fire Administration (USFA) to administer fire prevention and control programs, supplement existing programs of research, training, and education, and encourage new and improved programs and activities by state and local governments. Section 9(a) of the Act authorizes the USFA Administrator to operate directly or through contracts or grants, an integrated, comprehensive method to select, analyze, publish, and disseminate information related to prevention, occurrence, control, and results of fires of all types.

The National Fire Incident Reporting System (NFIRS) was established in the mid-1970s and is mandated by the Federal Fire Prevention and Control Act of 1974 (Pub. L. 93–498, as amended) which authorizes the National Fire Data Center to gather and analyze information such as (1) the frequency, causes, spread, and extinguishment of fires; (2) injuries and deaths resulting from fires; (3) information on injuries sustained by a firefighter; and (4) information on firefighting activities. The act further authorizes USFA to develop uniform data reporting methods, and to encourage and assist Federal, state, local and other agencies in developing and reporting information. NFIRS is a reporting standard that fire departments use to uniformly report on the full range of their activities, from fire to emergency medical services to severe weather and natural disasters. This reporting allows fire departments, as well as many other government and non-government agencies, to quantify their actions and identify incident and response trends. This information collection expired on April 30, 2019. FEMA is requesting a reinstatement, without change, of a previously approved information collection for which approval has expired. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

This proposed information collection previously published in the **Federal Register** on November 27, 2019, at 84 FR 65401 with a 60 day public comment period. One comment related to barns and their potential to catch fire due to poor building materials was received. This program office's response to the comment was that they received this comment in 2019 and that the comment is irrelevant as barn fires already can be currently reported through NFIRS by system users which are local fire departments. Changing building codes is not a direct purpose of this system.

#### Collection of Information

*Title:* National Fire Incident Reporting System (NFIRS) v5.0.

*Type of information collection:* Reinstatement, without change, of a previously approved information collection for which approval has expired.

*OMB Number:* OMB No. 1660–0069.

*Form Titles and Numbers:* The National Fire Incident Reporting System (NFIRS) v5.0 Modules 1–11.

*Abstract:* NFIRS provides a mechanism using standardized reporting methods to collect and analyze fire incident data at the Federal, state, and local levels. Data analysis helps local fire departments and states to focus on current problems, predict future problems in their communities, and measure whether their programs are working.

*Affected Public:* State, Local or Tribal, and Federal Government.

*Estimated Number of Respondents:* 23,500.

*Estimated Number of Responses:* 28,059,000.

*Estimated Total Annual Burden Hours:* 12,626,550.

*Estimated Total Annual Respondent Cost:* $530,693,897.

*Estimated Respondents' Operation and Maintenance Costs:* $1,974,000.

*Estimated Respondents' Capital and Start-Up Costs:* $1,128,000.

*Estimated Total Annual Cost to the Federal Government:* $3,386,107.

#### Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the

accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Millicent L. Brown,**

*Senior Manager, Records Management Branch, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2021–05648 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–76–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–4513–DR; Docket ID FEMA–2021–0001]**

### Virgin Islands; Amendment No. 4 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the territory of the U.S. Virgin Islands (FEMA–4513–DR), dated April 2, 2020, and related determinations.

**DATES:** This change occurred on February 27, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas J. Fargione, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of David I. Maurstad as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Robert J. Fenton,**

*Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–05805 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID: FEMA–2021–0008; OMB No. 1660–0025]**

### Agency Information Collection Activities: Proposed Collection; Comment Request; Non-Disaster (ND) Grants System

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** 60 Day Notice of Reinstatement and request for comments.

**SUMMARY:** The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on a reinstatement, with change, of a previously approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Non-Disaster (ND) Grants System.

**DATES:** Comments must be submitted on or before May 18, 2021.

**ADDRESSES:** To avoid duplicate submissions to the docket, please submit comments at *www.regulations.gov* under Docket ID FEMA–2021–0008. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, 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 read the Privacy and Security Notice that is available via the link on the homepage of *www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Everett Yuille, Branch Chief for Systems and Business Support, Grant Operations Division, Grant Programs Directorate, FEMA, at (202) 786–9457. You may contact the Information Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** Title 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards, establishes uniform administrative requirements, cost principles, and audit requirements for the Federal Emergency Management Agency (FEMA). It is necessary to standardize FEMA's grant administration processes to minimize the burden for State and local partners and other recipients to manage grants such as:

- The Cooperating Technical Partners (CTP) Program;
- The National Dam Safety Program (NDSP);
- The National Incident Management System (NIMS);
- The National Urban Search and Rescue (US&R) Response System Readiness Cooperative Agreement;
- The Community Assistance Program—State Support Services Elements (CAP–SSSE);
- The Emergency Food and Shelter Program (EFSP);
- The Emergency Management Baseline Assessment Grant (EMBAG);
- The Homeland Security National Training Program (HSNTP)/Continuing Training Grants (CTG);
- The Homeland Security Preparedness Technical Assistance Program (HSPTAP);
- The National Earthquake Hazard Reduction Program (NEHRP); and
- The State Fire Training Systems Grant Program.

Because FEMA currently relies on separate systems, which are neither integrated, nor capable of supporting the full lifecycle of FEMA non-disaster grants (announcement through close-out), FEMA must separately collect and collate program, financial, and performance data from the two systems as well as external sources, to inform policy makers and assist decision-making at all levels. By fully integrating and automating these systems through

ND Grants (*https://portal.fema.gov*), FEMA will obtain more efficient and effective operations that better serve the needs of both internal and external stakeholders.

With the Non-Disaster (ND) Grants System, FEMA implements a single, integrated, web-based, grants data collection and management system, combining all existing grant management functions of both grants systems, manual processes, and incorporate any additional functionality required by the Department of Homeland Security. This will result in the capability to manage all activities associated with non-disaster grants processes within a single full lifecycle grants management system. This system will ease the burden on grantees, providing them the functionality to manage their organization, more easily submit their applications online, and report on their performance toward completing their objectives. The new system will interface with *Grants.gov* and applicants will be notified via email to enter the system and review their applications. Grantees will then attach the detailed budget worksheet and the investment justifications.

With ND Grants, FEMA seeks to meet the intent of the E-Government initiative, authorized by Public Law 106–107 passed on November 20, 1999, that requires that all government agencies both streamline grant application processes and provide a mechanism to electronically create, review, and submit a grant application via the internet. The E-Government initiative is further governed by the E-Government Act of 2002, Public Law 107–347.

**Collection of Information**

*Title:* Non-Disaster (ND) Grants System.

*Type of Information Collection:* Reinstatement, with change, of a previously approved information collection.

*OMB Number:* 1660–0025.

*FEMA Forms:* Non-Disaster (ND) Grants System.

*Abstract:* ND Grants is a web-based grants management system that fulfills FEMA's strategic initiative to consolidate the entire non-disaster grants management lifecycle into a single system. Currently, ND Grants has functionality that supports the grantee application process, award acceptance, amendments, and performance reporting.

*Affected Public:* State, Tribal, or local government; non-profits; institutions of higher education; hospitals; and for-profit entities.

*Number of Respondents:* 2,380.

*Number of Responses:* 52,598.

*Estimated Total Annual Burden Hours:* 26,299 hours.

*Estimated Total Annual Respondent Cost:* $1,422,776.

*Estimated Respondents' Operation and Maintenance Costs:* $0.

*Estimated Respondents' Capital and Start-Up Costs:* $0.

*Estimated Total Annual Cost to the Federal Government:* $24,588,479.

**Comments**

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Millicent L. Brown,**

*Senior Manager, Records Management Branch, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2021–05713 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–78–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–4488–DR; Docket ID FEMA–2021–0001]**

### New Jersey; Amendment No. 3 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of New Jersey (FEMA–4488–DR), dated March 25, 2020, and related determinations.

**DATES:** This change occurred on February 27, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas J. Fargione, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of David I. Maurstad as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Robert J. Fenton,**

*Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–05803 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–3554–EM; Docket ID FEMA–2021–0001]**

### Texas; Emergency and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of an emergency for the State of Texas (FEMA–3554–EM), dated February 14, 2021, and related determinations.

**DATES:** The declaration was issued February 14, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency

Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated February 14, 2021, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in the State of Texas resulting from a severe winter storm beginning on February 11, 2021, and continuing, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Texas.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B) for mass care and sheltering and direct federal assistance under the Public Assistance program.

Consistent with the requirement that federal assistance be supplemental, any federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Jerry S. Thomas, of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Texas have been designated as adversely affected by this declared emergency:

Emergency protective measures (Category B) for mass care and sheltering and direct federal assistance under the Public Assistance program at 75 percent federal funding for all 254 counties in the State of Texas.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Robert J. Fenton,**

*Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–05792 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Internal Agency Docket No. FEMA–4493–DR; Docket ID FEMA–2021–0001]**

### Puerto Rico; Amendment No. 4 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the Commonwealth of Puerto Rico (FEMA–4493–DR), dated March 27, 2020, and related determinations.

**DATES:** This change occurred on February 27, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Thomas J. Fargione, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of David I. Maurstad as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Robert J. Fenton,**

*Senior Official Performing the Duties of the Administrator, Federal Emergency Management Agency.*

[FR Doc. 2021–05804 Filed 3–18–21; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket Number DHS–2021–0009]**

### Agency Information Collection Activities: Vulnerability Discovery Program, 1601–0028

**AGENCY:** Department of Homeland Security (DHS).

**ACTION:** 60-Day notice and request for comments; extension without change of a currently approved collection, 1601–0028

**SUMMARY:** The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted until May 18, 2021. This process is conducted in accordance with 5 CFR 1320.1

**ADDRESSES:** You may submit comments, identified by docket number Docket # DHS–2021–0009, at:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and docket number Docket # DHS–2021–0009. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

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

**SUPPLEMENTARY INFORMATION:** Security vulnerabilities, defined in section 102(17) of the Cybersecurity Information Sharing Act of 2015, are any attribute of hardware, software, process, or procedure that could enable or facilitate the defeat of a security control. Security vulnerability mitigation is a process starting with discovery of the

vulnerability leading to applying some solution to resolve the vulnerability. There is constantly a search for security vulnerabilities within information systems, from individuals or nation states wishing to bypass security controls to gain invaluable information, to researchers seeking knowledge in the field of cyber security. Bypassing such security controls in the DHS and other Federal Agencies information systems can cause catastrophic damage including but not limited to loss in Personally Identifiable Information (PII), sensitive information gathering, and data manipulation.

Pursuant to section 101 of the Strengthening and Enhancing Cyber-capabilities by Utilizing Risk Exposure Technology Act, (commonly known as the SECURE Technologies Act) individuals, organizations, and/or companies may submit any discovered security vulnerabilities found associated with the information system of any Federal agency. This collection would be used by these individuals, organizations, and/or companies who choose to submit a discovered vulnerability found associated with the information system of any Federal agency.

Specifically, DHS and Federal cybersecurity agencies are working to address the recently discovered SolarWinds hack on Federal agencies and organizations around the world. While DHS had previously obtained approval to collect this information on its own behalf, recent cyber attacks exploiting vulnerabilities have exemplified the need to have this capability government-wide. In 2020, a major cyberattack, nicknamed the SolarWinds cyberattack, by a group backed by a foreign government penetrated thousands of organizations globally including multiple parts of the United States federal government, leading to a series of data breaches. The cyberattack and data breach were reported to be among the worst cyber-espionage incidents ever suffered by the U.S., due to the sensitivity and high profile of the targets and the long duration (eight to nine months) in which the hackers had access. Affected organizations worldwide included NATO, the U.K. government, the European Parliament, Microsoft and others

Public Law 116–283, Sec. 1705 (which amended 44 U.S.C. 3553) permits extensive sharing of information regarding cybersecurity and the protection of information and information systems from cybersecurity risks between Federal Agencies covered by the Federal Information Security Modernization Act and the Department of Homeland Security. This unique authority makes DHS well positioned to host the approval of this information collection on behalf of other Federal agencies

DHS is requesting pursuant to 44 US Code 3509, that the information collection be designated for any Federal agencies ability to utilize the standardized DHS online form to collect their own agency's vulnerability information and post the information on their own agency websites.

The form will include the following essential information:

- Vulnerable host(s)
- Necessary information for reproducing the security vulnerability
- Remediation or suggestions for remediation of the vulnerability
- Potential impact on host, if not remediated

This form will allow Federal agencies to complete the following actions; (1) allow the individuals, organizations, and/or companies who discover vulnerabilities in the information systems to report their findings to the agency, and (2) provide the agencies initial insight into any newly discovered vulnerabilities, as well as zero-day vulnerabilities in order to mitigate the security issues prior to malicious actors acting upon the vulnerability for malicious intent.

The form will also benefit researchers and will provide a safe and lawful method to practice and discover new cyber methods to discover the vulnerabilities. It will provide the same benefit to Federal agencies and will promote the enhancement of Federal information system security policies.

Respondents will be able to submit their information directly to the agency in which they would like to report a vulnerability. Federal Agencies will provide the form electronically via their agencies website.

The information collected does not have an impact on small business or other small entities.

The collection of this information related to the discovery of security vulnerabilities by individuals, organizations, and/or companies is needed to fulfill the congressional mandate in Section 101 of the SECURE Technologies Act related to creating Vulnerability Disclosure Policies. In addition, without the ability to collect information on newly discovered security vulnerabilities associated with Federal agency information systems, Federal agencies will rely solely on the internal security personnel and/or the discovery through a post occurrence breach of security controls.

There are no assurances of confidentiality provide. Any PII that is collected will be for the sole purpose of feedback and dialogue. Federal Agencies will ensure the collection of information is covered by a Systems of Record Notice and will display a Privacy Notice to the respondents.

There are no changes to the information being collected.

The Office of Management and Budget is particularly interested in comments which:

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.

**Analysis:**

Agency: Department of Homeland Security, (DHS)

*Title:* Vulnerability Discovery Program

*OMB Number:* 1601–0028

*Frequency:* On Occasion

*Affected Public:* State, Local and Tribal Government

*Number of Respondents:* 3,000

*Estimated Time per Respondent:* 1 Hour

*Total Burden Hours:* 3,000

**Robert Dorr,**

*Executive Director, Business Management Directorate.*

[FR Doc. 2021–05767 Filed 3–18–21; 8:45 am]

BILLING CODE 9112–FL–P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[CIS No. 2681–21; DHS Docket No. USCIS–2013–0001]**

**RIN 1615–ZB72**

## Extension and Redesignation of Syria for Temporary Protected Status

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** Through this notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of Syria for Temporary Protected Status (TPS) for 18 months, from March 31, 2021 through September 30, 2022 and redesignating Syria for 18 months, effective March 31, 2021 through September 30, 2022. The extension allows currently eligible TPS beneficiaries to retain TPS through September 30, 2022, so long as they otherwise continue to meet the eligibility requirements for TPS. The redesignation of Syria allows additional individuals who have been continuously residing in the United States since March 19, 2021 to obtain TPS, if otherwise eligible. Through this notice, DHS also sets forth procedures necessary for Syrian nationals (or noncitizens having no nationality who last habitually resided in Syria) either to re-register under the extension, if they already have TPS, and to apply for renewal of their Employment Authorization Documents (EAD) with U.S. Citizenship and Immigration Services (USCIS) or to submit an initial registration application under the redesignation and apply for an EAD.

**DATES:** *Extension of Designation of Syria for TPS:* The 18-month extension of the TPS designation of Syria is effective March 31, 2021 and will remain in effect through September 30, 2022. The 60-day re-registration period runs from March 19, 2021 through May 18, 2021. (Note: It is important for re-registrants to timely re-register during this 60-day period and not to wait until their EADs expire.) *Redesignation of Syria for TPS:* The 18-month redesignation of Syria for TPS is effective March 31, 2021, and will remain in effect through September 30, 2022. The 180-day initial registration period for new applicants under the Syria TPS redesignation runs March 19, 2021 through September 15, 2021.

**FOR FURTHER INFORMATION CONTACT:**

- You may contact Maureen Dunn, Division Chief, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800–375–5283.
- For further information on TPS, including guidance on the re-registration process and additional information on eligibility, please visit the USCIS TPS web page at *http://www.uscis.gov/tps.* You can find specific information about this extension of Syria's TPS designation by selecting ''Syria'' from the menu on the left side of the TPS web page.
- If you have additional questions about TPS, please visit *uscis.gov/tools.* Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).
- Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *http://www.uscis.gov,* or visit the USCIS Contact Center at *uscis.gov/contactcenter.*
- Further information will also be available at local USCIS offices upon publication of this notice.

**SUPPLEMENTARY INFORMATION:**

### Table of Abbreviations

BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—U.S. Department of Homeland Security
DOS—U.S. Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Form I–765—Application for Employment Authorization
Form I–797—Notice of Action
Form I–821—Application for Temporary Protected Status
Form I–9—Employment Eligibility Verification
Form I–912—Request for Fee Waiver
Form I–94—Arrival/Departure Record
FR—Federal Register
Government—U.S. Government
IJ—Immigration Judge
INA—Immigration and Nationality Act
IER—U.S. Department of Justice Civil Rights Division, Immigrant and Employee Rights Section
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
U.S.C.—United States Code

Through this notice, DHS sets forth procedures necessary for eligible nationals of Syria (or noncitizens having no nationality who last habitually resided in Syria) to (1) re-register for TPS and to apply for renewal of their EADs with USCIS or (2) submit an initial registration application under the redesignation and apply for an EAD.

Re-registration is limited to individuals who have previously registered for TPS under the designation of Syria and whose applications have been granted.

For individuals who have already been granted TPS under Syria's designation, the 60-day re-registration period runs from March 19, 2021 through May 18, 2021. USCIS will issue new EADs with a September 30, 2022 expiration date to eligible Syrian TPS beneficiaries who timely re-register and apply for EADs. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants may receive new EADs before their current EADs expire on March 31, 2021. Accordingly, through this **Federal Register** notice, DHS automatically extends the validity of EADs previously issued under the TPS designation of Syria for 180 days, through September 27, 2021. Therefore, TPS beneficiaries can show their EADs with: (1) A March 31, 2021 expiration date and (2) an A–12 or C–19 category code as proof of continued employment authorization through September 27, 2021. This notice explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and how this affects the Form I–9, Employment Eligibility Verification, E-Verify, and USCIS Systematic Alien Verification for Entitlements (SAVE) processes.

Individuals who have a Syria TPS application (Form I–821) and/or Application for Employment Authorization (Form I–765) that was still pending as of March 19, 2021 do not need to file either application again. If USCIS approves an individual's Form I–821, USCIS will grant the individual TPS through September 30, 2022. Similarly, if USCIS approves a pending TPS-related Form I–765, USCIS will issue the individual a new EAD that will be valid through the same date. There are approximately 6,700 current beneficiaries under Syria's TPS designation.

Under the redesignation, individuals who currently do not have TPS may submit an initial application during the 180-day initial registration period that

runs from March 19, 2021 through September 15, 2021. In addition to demonstrating continuous residence in the United States since March 19, 2021 and meeting other eligibility criteria, initial applicants for TPS under this redesignation must demonstrate that they have been continuously physically present in the United States since March 31, 2021, the effective date of this redesignation of Syria, before USCIS may grant them TPS. USCIS estimates that approximately 1,800 individuals are eligible to file initial applications for TPS under the redesignation of Syria.

**What is temporary protected status (TPS)?**

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the INA, or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion. Upon return from such authorized travel, TPS beneficiaries retain the same immigration status they had prior to the travel.
  - The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)-(2), 8 U.S.C. 1254a(c)(1)-(2).
- When the Secretary terminates a country's TPS designation, beneficiaries return to one of the following:
  - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or been terminated); or
  - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid beyond the date TPS terminates.

**When was Syria designated for TPS?**

Former Secretary of Homeland Security Janet Napolitano initially designated Syria for TPS on March 29, 2012, based on extraordinary and temporary conditions resulting from the Syrian military's violent suppression of opposition to President Bashar al-Assad's regime that prevented Syrian nationals from safely returning to Syria. *See Designation of Syrian Arab Republic for Temporary Protected Status,* 77 FR 19026 (Mar. 29, 2012). Following the initial designation, former Secretaries Napolitano and Jeh Johnson extended and newly designated Syria for TPS three times. In 2016, former Secretary Johnson both extended Syria's designation and newly designated Syria for TPS for 18 months through March 30, 2018. *See Extension and Redesignation of Syria for Temporary Protected Status,* 81 FR 50533 (Aug. 1, 2016). In 2018, former Secretary Kirstjen Nielsen extended Syria's designation for 18 months, through September 30, 2019. *See Extension of the Designation of Syria for Temporary Protected Status,* 83 FR 9329 (March 5, 2018). Most recently, in September 2019, former Acting Secretary Kevin McAleenan again extended Syria's TPS designation for 18 months based on ongoing armed conflict and extraordinary and temporary conditions, but he did not newly designate Syria for TPS at that time. *See Extension of the Designation of Syria for Temporary Protected Status,* 84 FR 49751 (Sep. 23, 2019).

**What authority does the Secretary have to extend the designation of Syria for TPS?**

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate agencies of the U.S. Government (Government), to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[1] The decision to designate any foreign state (or part thereof) is a discretionary decision, and there is no judicial review of any determination with respect to the designation, or termination of or extension of a designation. The Secretary, in his/her discretion, may then grant TPS to eligible nationals of that foreign state (or noncitizens having no nationality who last habitually resided in the designated country). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in the foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary does not determine that the foreign state no longer meets the conditions for TPS designation, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months. *See* INA section 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

**Why is the Secretary extending and redesignating TPS for Syria through September 30, 2022?**

DHS has reviewed conditions in Syria. Based on the review, including input received from other U.S. Government agencies, the Secretary has determined that an 18-month extension is warranted because the ongoing armed conflict and extraordinary and temporary conditions supporting Syria's TPS designation remain.

The protracted civil war continues to contribute to the severe humanitarian crisis in Syria and continues to demonstrate deliberate targeting of civilians, the use of chemical weapons and irregular warfare tactics, and forced conscription and use of child soldiers. The war has resulted in a sustained need for humanitarian assistance, an increase in refugees and displaced people, food insecurity, limited access to water and medical care, and a large-scale destruction of Syria's infrastructure.

As further indication of the deteriorating conditions, on October 8, 2020, President Donald Trump continued for one year the national emergency with respect to Syria declared in Executive Order 13894, citing ''the actions by the Government of Turkey to conduct a military offensive into northeast Syria, undermines the campaign to defeat the Islamic State of Iraq and Syria, or ISIS, endangers civilians, and further threatens to undermine the peace, security, and stability in the region, and continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States.''

While the last documented chemical weapons attack by the Syrian government was an attack using chlorine on May 19, 2019 in Latakia province that injured several civilians, in October 2020, United States Ambassador to the UN Kelly Craft stated

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to DHS ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

that Syria had breached its obligation under the Chemical Weapons Convention and UN resolutions to dismantle its chemical weapons program.

In addition to chemical weapons, according to the Department of State (DOS), the regime also frequently employed prohibited cluster munitions and barrel bombs. Per DOS, the Syrian Network for Human Rights [2] documented at least 3,420 barrel bombs dropped by Russian and Syrian helicopters and airplanes on Idlib between April and September of 2019, often striking civilians and civilian infrastructure, including homes, medical facilities, and schools. In the last weeks of December 2020, the regime's forces dropped barrel bombs in Maaret al-Norman, resulting in the deaths of a child and a White Helmets humanitarian volunteer.

DOS reported that in late 2019, regime and pro-regime forces attacked civilians in hospitals, residential areas, schools, and settlements for IDPs and refugee camps; these attacks included bombardment with barrel bombs in addition to the use of chemical weapons. These forces used the massacre of civilians, as well as their forced displacement, rape, starvation, and protracted sieges that occasionally forced local surrenders, as military tactics. In late 2019, ISIS members in Syria continued to plot or inspire external terrorist operations, also according to DOS.

According to the UN Independent International Commission of Inquiry on the Syrian Arab Republic, Syrian Government troops ''carried out air and ground attacks which decimated civilian infrastructure, depopulated towns and villages,'' killing hundreds of women, men and children'' between November of 2019 and June of 2020. In a press release related to the report, Commission Chair Paulo Pinheiro stated that, ''Children were shelled at school, parents were shelled at the market, patients were shelled at the hospital. . .entire families were bombarded even while fleeing. What is clear from the military campaign is that pro-government forces and UN-designated terrorists flagrantly violated the laws of war and the rights of Syrian civilians.''

According to the Internal Displacement Monitoring Center,[3] Syria has the highest number of Internally Displaced Persons in the world, seeing 1.8 million new displacements in 2019, and an additional 1.5 million new displacements in the first half of 2020, mostly as a result of the regime's military offensives in the northeast and northwest areas of the country. In 2020, USAID reported 6.6 million people are internally displaced within Syria, an increase of 400,000 from USAID's 2019 reports. In 2020, UNHCR registered 5,580,396 Syrian refugees in neighboring countries, representing an increase of approximately 10,000 refugees from 5,570,382 Syrian refugees in neighboring countries in 2019. As of September 2020, the United States Agency for International Development (USAID) reported 11.1 million people in Syria were in need of humanitarian assistance (a reduction from 11.7 million people in 2019).

In September 2020, the UN World Food Programme (WFP) estimated that 9.3 million people in Syria are food insecure, the highest number ever recorded, as the conflict persists and ''the overall food security situation is deteriorating across the country.'' USAID reported that ''inflation, high food prices, and the worst drought in 30 years—that killed high numbers of livestock and drastically reduced crop yields in 2018—have also contributed to food assistance needs across Syria in 2019.'' The COVID–19 pandemic in 2020 has also exacerbated food insecurity. In the summer of 2020, the head of the WFP assessed that, ''Syria faces the risk of mass starvation or another mass exodus unless more aid money is made available.''

DOS says that, according to the UN Office for the Coordination of Humanitarian Affairs (UNOCHA), half of all health facilities were closed or partially functioning, and the conflict had killed hundreds of healthcare workers.

According to the World Bank, the conflict in Syria has continued to devastate the Syrian economy. A lack of sustained access to health care, education, housing, and food have exacerbated the effects of the conflict and pushed millions of people into unemployment and poverty.

Based upon this review and after consultation with appropriate Government agencies, the Secretary has determined that:

- The conditions supporting Syria's designation for TPS continue to be met. *See* INA section 244(b)(3)(A) and (C), 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continues to be an ongoing armed conflict in Syria and, due to such conflict, requiring the return to Syria of Syrian nationals (or noncitizens having no nationality who last habitually resided in Syria) would pose a serious threat to their personal safety. *See* INA section 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A).
- There continue to be extraordinary and temporary conditions in Syria that prevent Syrian nationals (or noncitizens having no nationality who last habitually resided in Syria) from returning to Syria in safety, and it is not contrary to the national interest of the United States to permit Syrian TPS beneficiaries to remain in the United States temporarily. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- There are extraordinary and temporary conditions in Syria that prevent Syrian nationals (or noncitizens having no nationality who last habitually resided in Syria), who have arrived in the United States since Syria's 2016 TPS designation from returning to Syria in safety.
- The designation of Syria for TPS should be extended for an 18-month period, from March 31, 2021 through September 30, 2022. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).
- The designation of Syria for TPS should be redesignated for an 18-month period, from March 31, 2021 through September 30, 2022. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).

**Notice of Extension of the TPS Designation and Redesignation of Syria for TPS**

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, the conditions supporting Syria's designation for TPS continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). On the basis of this determination, I am simultaneously extending the existing designation of TPS for Syria for 18 months, from March 31, 2021 through September 30, 2022 and redesignating Syria for TPS for the same 18-month period. *See* INA section 244(b)(1)(A),

[2] The Syrian Network for Human Rights is ''an independent, neutral, non-governmental, non-profit human rights organization'' which documents human rights violations in Syria. *https://sn4hr.org/*.

[3] The Internal Displacement Monitoring Center is a non-profit organization that ''provides data and analysis and supports partners to identify and implement solutions to internal displacement.'' *https://www.internal-displacement.org/*.

(b)(1)(C) and (b)(2); 8 U.S.C. 1254a(b)(1)(A), (b)(1)(C), and (b)(2).

**Alejandro N. Mayorkas,**

*Secretary, U.S. Department of Homeland Security.*

## Required Application Forms and Application Fees To Register or Re-Register for TPS

To register or re-register for TPS based on the designation of Syria, you *must* submit an Application for Temporary Protected Status (Form I–821). If you are filing an initial application, you must pay the fee for the Application for Temporary Protected Status (Form I–821) or request a fee waiver. If you are filing an application for re-registration, you do not need to pay the fee for the Application for Temporary Protected Status (Form I–821). There is no Form I–821 fee for re-registration. *See* 8 CFR 244.17. You may be required to pay the biometric services fee. Please see additional information under the ''Biometric Services Fee'' section of this notice.

Through this **Federal Register** notice, your existing EAD issued under the TPS designation of Syria with the expiration date of March 31, 2021, is automatically extended for 180 days, through September 27, 2021. Although not required to do so, if you want to obtain a new EAD valid through September 30, 2022, you must file an Application for Employment Authorization (Form I–765) and pay the Form I–765 fee (or submit a Request for a Fee Waiver (Form I–912)). If you do not want a new EAD, you do not have to file Form I–765 and pay the Form I–765 fee. If you do not want to request a new EAD now, you may also file Form I–765 at a later date and pay the fee (or request a fee waiver), provided that you still have TPS or a pending TPS application.

If you have a Form I–821 and/or Form I–765 that was still pending as of March 19, 2021, then you do not need to file either application again. If USCIS approves your pending TPS application, USCIS will grant you TPS through September 30, 2022. Similarly, if USCIS approves your pending TPS-related Form I–765, it will be valid through the same date. If you are applying for initial registration and want an EAD, you must file and pay the fee for the Application for Employment Authorization (Form I–765).

You may file the application for a new EAD either prior to or after your current EAD has expired. However, you are strongly encouraged to file your application for a new EAD as early as possible to avoid gaps in the validity of your employment authorization documentation and to ensure that you receive your new EAD by September 27, 2021.

For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *http://www.uscis.gov/tps*. Fees for the Form I–821, the Form I–765, and biometric services are also described in 8 CFR 103.7(b)(1)(i).

## Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age and older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay the biometric services fee, you may complete a Request for Fee Waiver (Form I–912). For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *www.uscis.gov/tps*. If necessary, you may be required to visit an Application Support Center to have your biometrics captured. For additional information on the USCIS biometrics screening process, please see the USCIS Customer Profile Management Service Privacy Impact Assessment, available at *www.dhs.gov/privacy*.

## Refiling a TPS Re-Registration Application After Receiving a Denial of a Fee Waiver Request

You should file as soon as possible within the 60-day re-registration period so USCIS can process your application and issue any EAD promptly. Properly filing early will also allow you to have time to refile your application before the deadline, should USCIS deny your fee waiver request. If, however, you receive a denial of your fee waiver request and are unable to refile by the re-registration deadline, you may still refile your Form I–821 with the biometrics fee. USCIS will review this situation to determine whether you established good cause for late TPS re-registration. However, you are urged to refile within 45 days of the date on any USCIS fee waiver denial notice, if possible. *See* INA section 244(c)(3)(C); 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(b). For more information on good cause for late re-registration, visit the USCIS TPS web page at *http://www.uscis.gov/tps*. Following denial of your fee waiver request, you may also refile your Form I–765 with fee either with your Form I–821 or at a later time, if you choose.

**Note:** Although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the Form I–821 fee) when filing a TPS re-registration application, you may decide to wait to request an EAD. Therefore, you do not have to file the Form I–765 or pay the associated Form I765 fee (or request a fee waiver) at the time of re-registration, and could wait to seek an EAD until after USCIS has approved your TPS re-registration application. If you choose to do this, to re-register for TPS you would only need to file the Form I–821 with the biometric services fee, if applicable (or request a fee waiver).

## Mailing Information

Mail your application for TPS to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

| If you would like to send your application by: | Then, mail your application to: |
|---|---|
| U.S. Postal Service ..... | U.S. Citizenship and Immigration Services, Attn: TPS Syria, P.O. Box 6943, Chicago, IL 60680–6943. |
| FedEx, UPS, or DHL ..... | U.S. Citizenship and Immigration Services, Attn: TPS Syria, 131 S Dearborn Street—3rd Floor, Chicago, IL 60603–5517. |

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA) and you wish to request an EAD or are re-registering for the first time following a grant of TPS by an IJ or the BIA, please mail your application to the appropriate mailing address in Table 1. When re-registering and requesting an EAD based on an IJ/BIA grant of TPS, please include a copy of the IJ or BIA order granting you TPS with your application. This will help us to verify your grant of TPS and process your application.

## Supporting Documents

The filing instructions on the Form I–821 list all the documents needed to establish eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying or registering for TPS on the USCIS website at *www.uscis.gov/tps* under ''Syria.''

## Employment Authorization Document (EAD)

*How can I obtain information on the status of my EAD request?*

To get case status information about your TPS application, including the status of an EAD request, you can check Case Status Online at *http://www.uscis.gov,* or visit the USCIS Contact Center at *uscis.gov/contactcenter*. If your Form I–765 has been pending for more than 90 days, and you still need assistance, you may ask a question about your case online at *egov.uscis.gov/e-request/Intro.do* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

**Am I eligible to receive an automatic 180-day extension of my current EAD through September 27, 2021 using this *Federal Register* Notice?**

Yes. Regardless of your country of birth, provided that you currently have a Syria TPS-based EAD with a marked expiration date of March 31, 2021, bearing the notation A–12 or C–19 on the face of the card under Category, this notice automatically extends your EAD through September 27, 2021.

Although this **Federal Register** notice automatically extends your EAD through September 27, 2021 you must re-register timely for TPS in accordance with the procedures described in this **Federal Register** notice to maintain your TPS.

*When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I–9?*

You can find the Lists of Acceptable Documents on the third page of Form I–9 as well as the Acceptable Documents web page at *https://www.uscis.gov/i-9-central/acceptable-documents*. Employers must complete Form I–9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I–9 requirements.

You may present any document from List A (which provides evidence of both identity and employment authorization), or one document from List B (which provides evidence of your identity) together with one document from List C (which provides evidence of employment authorization), or you may present an acceptable receipt for List A, List B, or List C documents as described in the Form I–9 instructions. Employers may not reject a document based on a future expiration date. You can find additional information about Form I–9 on the I–9 Central web page at *http://www.uscis.gov/I-9Central*.

An EAD is an acceptable document under List A. See the section ''How do my employer and I complete Form I–9 using my automatically extended EAD for a new job?'' of this **Federal Register** notice for further information. If your EAD has an expiration date of March 31, 2021 and states A–12 or C–19 under Category, it has been extended automatically by virtue of this **Federal Register** notice and you may choose to present your EAD to your employer as proof of identity and employment eligibility for Form I–9 through September 27, 2021, unless your TPS has been withdrawn or your request for TPS has been denied. See the subsection titled, ''How do my employer and I complete the Form I–9 using my automatically extended EAD for a new job?'' for further information.

As an alternative to presenting evidence of your automatically extended EAD, you may choose to present any other acceptable document from List A, a combination of one selection from List B and one selection from List C, or a valid receipt.

*What documentation may I present to my employer for Form I–9 if I am already employed but my current TPS-related EAD is set to expire?*

Even though your EAD has been automatically extended, your employer is required by law to ask you about your continued employment authorization. Your employer may need to re-inspect your automatically extended EAD to check the Card Expires date and Category code if your employer did not keep a copy of your EAD when you initially presented it. Once your employer has reviewed the Card Expiration date and Category code, your employer should update the EAD expiration date in Section 2 of Form I–9. See the section ''What updates should my current employer make to Form I–9 if my EAD has been automatically extended?'' of this **Federal Register** notice for further information. You may show this **Federal Register** notice to your employer to explain what to do for Form I–9 and to show that your EAD has been automatically extended through September 27, 2021.The last day of the automatic EAD extension is September 27, 2021. Before you start work on September 28, 2021, your employer is required by law to reverify your employment authorization in Section 3 of Form I–9. At that time, you must present any document from List A or any document from List C on Form I–9 Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I–9 instructions to reverify employment authorization.

Your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

*Can my employer require that I provide any other documentation to prove my status, such as proof of my Syrian citizenship or a Form I–797C showing I re-registered for TPS?*

No. When completing Form I–9, including reverifying employment authorization, employers must accept any documentation that appears on the Form I–9 Lists of Acceptable Documents that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers need not reverify List B identity documents. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of Syrian citizenship or proof of re-registration for TPS when completing Form I–9 for new hires or reverifying the employment authorization of current employees. If you present an EAD that has been automatically extended, employers should accept it as a valid List A document so long as the EAD reasonably appears to be genuine and relates to you. Refer to the Note to Employees section of this **Federal Register** notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

*How do my employer and I complete the Form I–9 using my automatically extended EAD for a new job?*

When using an automatically extended EAD to complete Form I–9 for a new job before September 28, 2021, for Section 1, you should:

a. Check ''An alien authorized to work until'' and enter September 27, 2021 as the ''expiration date''; and

b. Enter your Alien Number/USCIS number or A-Number where indicated (your EAD or other document from DHS will have your USCIS number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix).

2. For Section 2, employers should:

a. Determine if the EAD is auto-extended by ensuring it is in category A–12 or C–19 and has a Card Expires date of March 31, 2021;

b. Write in the document title;

c. Enter the issuing authority;

d. Provide the document number; and

e. Write September 27, 2021, as the expiration date.

Before the start of work on September 28, 2021, employers must reverify the employee's employment authorization in Section 3 of Form I–9.

*What updates should my current employer make to Form I–9 if my EAD has been automatically extended?*

If you presented a TPS-related EAD that was valid when you first started your job and your EAD has now been automatically extended, your employer may need to re-inspect your current

EAD if they do not have a copy of the EAD on file. Your employer should determine if your EAD is automatically extended by ensuring that it contains Category A–12 or C–19 and has a Card Expires date of March 31, 2021.

If your employer determines that your EAD has been automatically extended, your employer should update Section 2 of your previously completed Form I–9 as follows:

1. Write EAD EXT and September 27, 2021 as the last day of the automatic extension in the Additional Information field; and

2. Initial and date the correction.

*Note:* This is not considered a reverification. Employers do not need to complete Section 3 until either the 180-day automatic extension has ended, or the employee presents a new document to show continued employment authorization, whichever is sooner. By September 28, 2021, when the employee's automatically extended EAD has expired, employers are required by law to reverify the employee's employment authorization in Section 3.

*If I am an employer enrolled in E–Verify, how do I verify a new employee whose EAD has been automatically extended?*

Employers may create a case in E–Verify for a new employee by entering the number from the Document Number field on Form I–9 into the document number field in E–Verify.

*If I am an employer enrolled in E–Verify, what do I do when I receive a ''Work Authorization Documents Expiration'' alert for an automatically extended EAD?*

E–Verify automated the verification process for TPS-related EADs that are automatically extended. If you have employees who provided a TPS-related EAD when they first started working for you, you will receive a ''Work Authorization Documents Expiring'' case alert when the auto-extension period for this EAD is about to expire. Before this employee starts work on September 28, 2021, you must reverify his or her employment authorization in Section 3 of Form I–9. Employers should not use E–Verify for reverification.

**Note to All Employers**

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I9Central@uscis.dhs.gov.* USCIS accepts calls and emails in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E–Verify), employers may call the U.S. Department of Justice's Civil Rights Division, Immigrant and Employee Rights Section (IER) Employer Hotline at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in numerous languages. Employers may also email IER at *IER@usdoj.gov.*

**Note to Employees**

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov.* Calls are accepted in English, Spanish, and many other languages. Employees or applicants may also call the IER Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, including discrimination related to Form I–9 and E–Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Form I–9 Instructions. Employers may not require extra or additional documentation beyond what is required for Form I–9 completion. Further, employers participating in E–Verify who receive an E–Verify case result of Tentative Nonconfirmation (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E–Verify from an employee's Form I–9 differs from Federal or state government records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay, or take any adverse action against an employee because of the TNC while the case is still pending with E–Verify. A Final Nonconfirmation (FNC) case result is received when E–Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E–Verify-related discrimination or to report an employer for discrimination in the E–Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Form I–9 and E–Verify procedures is available on the IER website at *https://www.justice.gov/ier* and on the USCIS and E–Verify websites at *https://www.uscis.gov/i-9-central* and *https://www.e-verify.gov.*

**Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)**

For Federal purposes, TPS beneficiaries presenting an EAD referenced in this **Federal Register** notice do not need to show any other document, such as an I–797C Notice of Action, to prove that they qualify for this extension. However, while Federal Government agencies must follow the guidelines laid out by the Federal Government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary, show you are authorized to work based on TPS or other status, and/or that may be used by DHS to determine whether you have TPS or other immigration status. Examples of such documents are:

- Your current EAD;
- A copy of your Form I–797C, Notice of Action, for your Form I–765;
- A copy of your Form I–797C, Notice of Action, for your Form I–821 for this re-registration;
- A copy of your Form I–797, the notice of approval, for a past or current Form I–821, if you received one from USCIS; or
- Any other relevant DHS-issued document that indicates your immigration status or authorization to be in the United States, or that may be used by DHS to determine whether you have such status or authorization to remain in the United States.

Check with the government agency regarding which document(s) the agency

will accept. Some benefit-granting agencies use USCIS' Systematic Alien Verification for Entitlements (SAVE) program to confirm the current immigration status of applicants for public benefits. While SAVE can verify when an individual has TPS, each agency's procedures govern whether they will accept an unexpired EAD, Form I–797, or Form I–94, Arrival/Departure Record. If an agency accepts the type of TPS-related document you are presenting, such as an EAD, the agency should accept your automatically extended EAD. You should:

a. Present the agency with a copy of the relevant **Federal Register** notice showing the extension of TPS-related documentation in addition to your recent TPS-related document with your A-number, USCIS number or Form I–94 number;

b. Explain that SAVE will be able to verify the continuation of your TPS using this information; and

c. Ask the agency to initiate a SAVE query with your information and follow through with additional verification steps, if necessary, to get a final SAVE response verifying your TPS.

You can also ask the agency to look for SAVE notices or contact SAVE if they have any questions about your immigration status or automatic extension of TPS-related documentation. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but, occasionally, verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at *save.uscis.gov/casecheck/.* CaseCheck is a free service that lets you follow the progress of your SAVE verification case using your date of birth and one immigration identifier number (A-number, USCIS number or Form I–94 number) or Verification Case Number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the SAVE response is correct, find detailed information on how to make corrections or update your immigration record, make an appointment, or submit a written request to correct records. More information can be found on the SAVE website at *www.uscis.gov/save.*

[FR Doc. 2021–05715 Filed 3–18–21; 8:45 am]

BILLING CODE 9111–97–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7039–N–03; OMB Control No.: 2501–0019]**

## 60-Day Notice of Proposed Information: Semi-Annual Labor Standards Enforcement Report Local Contracting Agencies (HUD Programs)

**AGENCY:** Field Policy and Management, Office of Davis Bacon and Labor Standards, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval for the proposed information collection requirement described below and will be submitting to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** *Comments Due Date:* May 18, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Saundra A. Green, Administrative Officer, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, Room 7108 or the number (202–402–5537) this is not a toll free number or email at *Saundra.A.Green@hud.gov* or a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number though TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 402–3400 (this is not a toll free number) or email Colette Pollard at *Colette.Pollard@hud.gov* for copies of the proposed forms and other available information. Persons with hearing or speech impairments may access this number though TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection 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; (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 the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

*Title:* Semi-Annual Labor Standards Enforcement Report Local Contracting agencies (HUD Programs).

*OMB Control Number, if applicable:* 2501–0019.

*Description of the need for the information and proposed use:* The Department of Labor (DOL) Regulations 29 CFR 5.7(b), requires Federal agencies administering programs subject to Davis-Bacon and Related Act (DBRA) and Contract Work Hours and Safety Standards Act (CWHSSA) labor standards to furnish a Semi-Annual Labor Standards Enforcement Report to the Administrator of the Wage and Hour Division. Some HUD programs are administered by state and local agencies for the labor standards compliance. HUD must collect information from such agencies in order to capture enforcement activities for all HUD programs in its reports to DOL.

*Agency form numbers, if applicable:* HUD FORM 4710, 4710i.

*Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:*

| Information collection | Number of respondents | Frequency of response | Responses per annum | Burden hour per response | Annual burden hours | Hourly cost per response | Annual cost |
|---|---|---|---|---|---|---|---|
| HUD 4710 Semi-annual Labor Standards Enforcement Report—Local Contracting Agencies | 4,870 | 2 | 9,740 | 2.5 | 24,350 | 37.34 | 909,229 |

| Information collection | Number of respondents | Frequency of response | Responses per annum | Burden hour per response | Annual burden hours | Hourly cost per response | Annual cost |
|---|---|---|---|---|---|---|---|
| HUD 4710i Instruction to fill out the above form | 0 | 0 | 0 | 0 | 0 | 0 | 9 |
| Total | 4,870 | 2 | 9,740 | 2 | 24,350 | $37.34 | $909,220 |

**Authority:** The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

**Timothy M. Smyth,**

*Director, Office of Field Policy and Management.*

[FR Doc. 2021–05701 Filed 3–18–21; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–6224–N–02]**

## Fair Market Rents for the Housing Choice Voucher Program,

Moderate Rehabilitation Single Room Occupancy Program, and Other Programs

Fiscal Year 2021; Revised

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Notice of Revised Fiscal Year (FY) 2021 Fair Market Rents (FMRs) and Discussion of Comments on FY 2021 FMRs.

**SUMMARY:** This notice updates the FY 2021 FMRs for four areas based on new survey data: Houston-The Woodlands-Sugar Land, TX HUD Metro FMR Area (HMFA), Knox County, ME, Lincoln County, ME, and Waldo County, ME. Further, HUD responds to comments received on the FY 2021 FMRs.

**DATES:** The revised FY 2021 FMRs for these four areas are effective on April 1, 2021.

**FOR FURTHER INFORMATION CONTACT:** Questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff.

For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800–245–2691 (toll-free) or access the information on the HUD USER website: *https://www.huduser.gov/portal/datasets/fmr.html.* Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (toll-free number). The FY 2021 EXCEL files have been updated to include these revised FMRs and this data is included in our query system by FMR area. For informational purposes, the 50th percentile rents for all FMR areas are updated and published at *https://www.huduser.gov/portal/datasets/50per.html.*

**SUPPLEMENTARY INFORMATION:** On August 14, 2020 HUD published the FY 2021 FMRs, requesting comments on the FY 2021 FMRs, and outlining procedures for requesting a reevaluation of an area's FY 2021 FMRs (85 FR 49666). This notice revises FY 2021 FMRs for four areas based on data provided to HUD. In addition to providing revised FY 2021 FMRs, this notice also provides responses to the public comments HUD received on the notice referenced above.

### I. Revised FY 2021 FMRs

The FMRs appearing in the following table supersede the use of the FY 2020 FMRs for the four areas that provided statistically valid data. The updated FY 2021 FMRs are based on surveys conducted by the area public housing agencies (PHAs) and reflect the estimated 40th percentile rent levels trended to April 1, 2021.

Stamford-Norwalk, CT, CT HMFA and Transylvania County, NC also provided survey data and have continued to use FY 2020 FMRs while survey data was evaluated. However, the survey data provided by these areas could not be used to revise their FY 2021 FMRs. Effective April 1, 2021, the FMRs for these two areas are the FY 2021 FMRs as originally calculated.

The FMRs for the affected area are revised as follows:

| 2021 Fair Market Rent Area | FMR by number of bedrooms in unit | | | | |
|---|---|---|---|---|---|
| | 0 BR | 1 BR | 2 BR | 3 BR | 4 BR |
| Houston-The Woodlands-Sugar Land, TX HUD Metro FMR Area | $908 | $983 | $1,176 | $1,576 | $2,010 |
| Knox County, ME | 771 | 815 | 967 | 1,329 | 1,365 |
| Lincoln County, ME | 797 | 802 | 1,021 | 1,270 | 1,642 |
| Waldo County, ME | 836 | 841 | 1,001 | 1,251 | 1,712 |

The FY 2021 FMRs are amended and are available on the HUD USER website: *https://www.huduser.gov/portal/datasets/fmr.html.* The FY 2021 Small Area FMRs (SAFMRs) for metropolitan areas with revised FMRs have also been updated commensurate with the metropolitan area revisions and may be found at *https://www.huduser.gov/portal/datasets/fmr/smallarea/index.html.*

### II. Public Comments on FY 2021 FMRs

A total of 13 comments were received and posted on regulations.gov, *https://www.regulations.gov/document?D=HUD-2020-0055-0001.* Of the 13 comments received, 11 were reevaluation requests for nine FMR areas. HUD granted requests for reevaluation for the nine FMR areas. Three areas elected to conduct a joint survey of the combined three-county area. See: *https://www.huduser.gov/portal/datasets/fmr/fmr2021/FY-2021-Reevaluation-areas.pdf.*

Public housing agencies in the nine areas where HUD agreed to reevaluate the FY 2021 FMRs continued to use FY 2020 FMRs during the reevaluation period as mandated by the Housing Opportunities Through Modernization Act. Six of these nine areas have continued to use FY 2020 FMRs since January 11, 2020 because they either provided valid survey data or requested additional time to collect survey results because of mail delays attributed to the COVID–19 pandemic. FY 2021 FMRs became effective on January 11, 2021 for the three areas where local survey data was not submitted by the January 8, 2021 cut-off date. HUD published a list of the three FMR areas not providing data at the following link: *https://www.huduser.gov/portal/datasets/fmr/fmr2021/FY-2021-FMR-Areas-without-Reevaluation-Data.pdf.* This notice

provides the reevaluated FY 2021 FMRs for the four areas requesting reevaluation that provided valid survey data and requires the use the FY 2021 FMRs as originally published for two areas that requested reevaluation but were unable to provide valid survey data.

*General Comments*

Most of the comments not related to specific areas requesting a reevaluation discussed inaccuracies of the FMRs and a need for more current and local data. These comments and their responses are discussed in greater detail below.

*Comment:* Several commenters suggested that HUD should provide additional funding to PHAs who undertake local area surveys. One comment noted that the cost for address-based mail surveys is in the $5,000 to $10,000 range.

*HUD Response:* HUD reminds PHAs that paying for local area rent surveys is an eligible expense to be paid from on-going administrative fees or their administrative fee reserve account. The estimate of $5,000 to $10,000 per survey is too low, based on the 2012 survey study of small metropolitan areas and is much higher based on recent experiences of these small metropolitan areas and rural counties. The estimate was never appropriate for rental markets in large and complex metropolitan FMR areas. In general, the cost of the survey increases with the size of the FMR area, the size of the rental market and the availability and cost of good rental market lists.

*Comment:* HUD's reliance on setting FMRs at the 40th percentile is flawed because this only works if there is a normal distribution of rental units. Sub-standard housing should be removed from the distribution when calculating a 40th percentile rent.

*HUD Response:* The purpose of using a percentile instead of an average is to account for abnormal distributions. HUD removes responses from the American Community Survey (ACS) when the respondent reports the unit does not have a complete kitchen or complete plumbing to address sub-standard units. In addition, HUD determines a ''public housing cut-off rent'' to eliminate the bottom end of the distribution of rental units from the ACS before the 40th percentile rent is calculated as a proxy to remove units with low rents that are likely in non-market transactions (*e.g.,* rented from relatives), subsidized (ACS does not ask whether households receive rental subsidies), or are otherwise inadequate in some manner not measured by the ACS. HUD uses a consistent method to calculate this distribution cut off for each HUD region. HUD continues to explore alternatives for removing assisted units from the ACS responses before the 40th percentile rent is calculated for the purpose of calculating FMRs.

*Comment:* HUD needs to conduct its *own* analysis or research to address market anomalies and account for erratic fluctuations in FMRs between years and by bedroom size.

*HUD Response:* HUD did conduct research into different methods of calculating the trend factor and implemented metropolitan and regional forecasting into the calculation of the trend factor beginning with the FY 2020 FMRs.

To correct erratic fluctuations in FMRs year over year, HUD has implemented steps to attenuate the fluctuations found in the annually updated survey data. HUD has made methodology changes that call for averaging bedroom ratios over three years of data and averaging base rents over the same period when the data is limited. The statutory directive to use the most recent data available compels HUD to update the data behind each area's FMR calculation when new data is released. Consequently, FMRs will change from year to year in accordance with changes in the underlying survey data. HUD emphasizes that the primary data source for FMRs is a survey (ACS) and while surveyors do their best to select unbiased random samples of the population, sampling error persists within survey statistics.

In addition, HUD has awarded three research grants, and each will evaluate potential methodology changes for the calculation of FMRs in areas with rapidly rising rents. The proposed methodology changes resulting from these three studies will be presented in a **Federal Register** Notice of material change in methodology that will be published for comment in early- to mid-2022.

HUD reminds agencies that payment standard regulations allow for a payment standard that is between 90 percent and 110 percent of the FMR. Therefore, PHAs may in many cases adopt payment standards that have ''smoother'' changes over time than the FMRs.

*Comment:* Along with inadequate administrative fees, inadequate FMRs result in voucher underutilization nationwide. HUD's methodology for setting FMRs also often results in a reduction of choice and in many places relegates voucher holders to the poorest areas.

*HUD Response:* HUD's methodology for calculating FMRs has been revised to improve choice in metropolitan areas through the use of Small Area FMRs and in all FMR areas by the use of local or regional trend factors as opposed to one national trend factor

*Comment:* HUD should create new administrative mechanisms to cope with inaccurate FMRs, specifically the current flexibilities should be expanded.

*HUD Response:* HUD does have procedures that provide flexibility in the voucher program that allow PHAs to keep payment standards constant when FMRs decline. For areas where rents increase more rapidly than what is captured by the most recent data available to HUD in calculating FMRs, the department provides a mechanism for more recent data collected in a survey to be supplied to HUD. Additionally, HUD has eased the exception payment standard regulations in metropolitan areas to allow for the use of up to 110 percent of the Small Area FMR as an exception payment standard with no approval needed from HUD. The only requirement is for PHAs to notify HUD of their use of Small Area FMRs in this manner. New administrative procedures would have to be developed by the programs other than the Housing Choice Voucher program to allow for use of payment standards to provide additional flexibility. Each program required to use FMRs without similar flexibility to payment standards would have to amend its regulations to allow for flexible application of FMRs if statute permits.

*Comment:* HUD should continue to refine its methodology for calculating FMRs. A high priority should be placed on improving the data that is used to derive more accurate FMRs. HUD should explore ''scraping'' local rent data and use more timely data when calculating FMRs

*HUD Response:* HUD is looking at incorporating scraped rental data and other more recent data in its current studies of improving FMR calculations in areas of rapidly rising rents.

*Comment:* HUD should use the 2017 American Community Survey data to compare the gross rent by FMR area to the FY 2017 FMRs to determine accuracy of FMRs and report back to the industry.

*HUD Response:* HUD undertook an analysis such as this and reported the results in a recent report to Congress. Please see the section labeled ''Accuracy of FMRs'' in HUD's report ''Proposals To Update the Fair Market Rent Formula'', page 3, available at *https://www.huduser.gov/portal/sites/default/*

*files/pdf/Proposals-To-Update-the-Fair-Market-Rent-Formula.pdf.* Between 2009 and 2016 for areas with sufficiently large ACS recent mover rental unit samples, the ACS-measured 40th percentile gross rents were within 90 to 110 percent of the published FMRs in 83.4 to 94.3 percent of cases. These results do not adjust for more recent improvements in the FMR estimation method.

### III. Environmental Impact

This Notice involves a statutorily required establishment of fair market rent schedules and does not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

**Todd M. Richardson,**

*General Deputy Assistant Secretary, Office of Policy Development and Research.*

[FR Doc. 2021–05782 Filed 3–18–21; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7034–N–13; OMB Control No.: 2577–0280]**

## 30-Day Notice of Proposed Information Collection: Transfer and Consolidation of Public Housing Programs

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date:* April 19, 2021.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start* Printed Page 15501PRAMain. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on January 4, 2021 at 86 FR 115.

### A. Overview of Information Collection

*Title of Information Collection:* Public Housing Program—Transfer and Consolidation of Public Housing Programs.

*OMB Approval Number:* 2577–0280.

*Type of Request:* Extension of a previously approved collection.

*Form Number:* N/A.

*Description of the need for the information and proposed use:* State legislatures or other local governing bodies may from time to time direct or agree that the public interest is best served if one public housing agency (PHA) cedes its public housing program to another PHA, or that two or more PHAs should be combined into one multijurisdictional PHA. This proposed information collection serves to protect HUD's several interests in either transaction: (1) insuring the continued used of the property as public housing; (2) that HUD's interests are secured; and (3) that the operating and capital subsidies that HUD pays to support the operation and maintenance of public housing is properly paid to the correct PHA on behalf of the correct properties. In addition to submitting documentation to HUD, PHAs are required to make conforming changes to HUD's Public Housing Information Center (PIC).

*Total Estimated Burdens:*

TOTAL BURDEN HOUR ESTIMATES FOR PHAS

| Number of transfer or consolidation actions | Number of respondents | Frequency of requirement * | × | Estimated average time for requirement (hours) | = | Estimated annual burden (hours) |
|---|---|---|---|---|---|---|
| 3 Transfers | 6 | 1 | | 120 | | 720 |
| 2 Consolidations | 4 | 1 | | 200 | | 800 |
| Subtotals | 10 | | | 320 | | 1,520 |

* The frequency shown assumes that the receiving or consolidated PHA makes one submission for all other PHAs involved in either the transfer or consolidation.

### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2021–05702 Filed 3–18–21; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7034–N–12]**

## 30-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing of Delinquent, Default, and Foreclosure With Service Members Act; OMB Control No.: 2502–0584

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

**DATES:** *Comments Due Date: April 19, 2021.*

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/Start Printed Page 15501PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 13, 2020 at 85 FR 72683.

### A. Overview of Information Collection

*Title of Information Collection:* FHA-Insured Mortgage Loan Servicing of Delinquent, Default and Foreclosure with Service Members Act.

*OMB Approval Number:* 2502–0584.

*Type of Request:* Extension of currently approved collection.

*Form Numbers:* HUD–2008–5–FHA Save Your Home Tips to Avoid Foreclosure, Electronic HUD–92068–A Monthly Delinquent Loan Report, HUD–92070 Service Members Civil Relief Act Notice Disclosure, Electronic EVARS New Extension Request.

*Description of the need for the information and proposed use:* This information request for OMB review involves mortgage loan servicers, ''mortgagees'' that service Federal Housing Administration (FHA) insured mortgage loans and the borrowers (Mortgagors) who are involved with the delinquent, in default, in foreclosure with Service Members Act activities. The data and information provided is essential for managing HUD's programs and the FHA's Mutual Mortgage Insurance Fund (MMI).

*Respondents:* Business or other for-profit Servicers of FHA-insured mortgage loans.

*Estimated Number of Respondents:* 14,609.

*Estimated Number of Responses:* 37,756,732.

*Frequency of Response:* Monthly.

*Average Hours per Response:* 7 minutes.

*Total Estimated Burdens:* 4,458,637.

### B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comments in response to these questions.

**Authority:** Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 2021–05704 Filed 3–18–21; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

**[PPWOIRADA1/PRCRFRFR6.XZ0000/PR.RIRAD1801.00.1; OMB Control Number 1093-New]**

## Agency Information Collection Activities; DOI Generic Clearance for Crowdsourcing and Citizen Science Activities

**AGENCY:** Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Department of the Interior (DOI, Interior) are proposing a new information collection.

**DATES:** Interested persons are invited to submit comments on or before May 18, 2021.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to Jeffrey Parrillo, Departmental Information Collection Clearance Officer, 1849 C Street, NW Washington, DC 20240; or by email to *DOI-PRA@ios.doi.gov.* Please reference Office of Management and Budget (OMB) Control Number 1093-New Citizen Science in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Jeffrey Parrillo, Departmental Information Collection Clearance Officer, 1849 C Street NW, Washington, DC 20240; by telephone at 202–208–7072, or by email to *DOI-PRA@ios.doi.gov.*

**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), all information collections require approval under the PRA. 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.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format. We are 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. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* Interior is requesting a new generic clearance process that would significantly streamline OMB approval enabling its bureaus and offices to conduct crowdsourcing and citizen science and crowdsourcing activities. This new generic clearance is needed in order to be more responsive to the Crowdsourcing and Citizen Science Act (15 U.S.C. 3724), as well as the following Secretarial Orders:

- 3347, ''Conservation Stewardship and Outdoor Recreation'';
- 3356, ''Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories'';
- 3357, ''Conservation Stewardship and Outdoor Recreation'';
- 3366, ''Increasing Recreational Opportunities on Lands and Waters Managed by the U.S. Department of the Interior''; and
- 3370, ''Improving Conservation Stewardship of and Increasing Public Access to Urban National Wildlife Refuges.''

Interior relies on scientific information such as those data contributed through crowdsourcing and citizen science activities. Crowdsourcing and citizen science is scientific research conducted, in whole or in part, by amateur (or nonprofessional) scientists. Crowdsourcing and citizen science projects enable participants to make a direct contribution to research, increase their scientific understanding, and directly immerse themselves in learning about environmental issues. Additional crowdsourcing and citizen science projects help provide opportunities to maximize the amount of available data that can be analyzed by professional researchers.

Crowdsourcing and citizen science techniques will allow Interior and its bureaus to collect qualitative and quantitative data that might help inform land management decisions, scientific research, assessments, or environmental screening; validate environmental models or tools; or enhance the quantity and quality of data collected across the country's diverse communities and ecosystems to support the Department's mission. Information gathered under this generic clearance will be used by Interior's bureaus to support the activities listed above and might provide unprecedented avenues for conducting breakthrough research.

The generic clearance will apply to any DOI crowdsourcing and citizen science collections designed to furnish usable information to DOI managers and planners concerning approved research efforts in areas managed by the DOI. To qualify for the DOI generic clearance, each information request must show clear ties to DOI management and planning needs in areas managed by the Interior and its bureaus. All collections must be reviewed by the bureau and Department Information Collection Clearance Officers and approved by OMB before a collection is administered.

Interior encourages its bureaus to collaborate with non-federal entities to use crowdsourcing and citizen science and crowdsourcing methods to collect this type of information. All collections must comply with Agency policies and the scope of this generic clearance. The scope of this generic clearance includes, but is not limited to, the natural, applied, social, and cultural sciences as they apply to crowdsourcing and citizen science activities. New collections not within the scope of this generic clearance will require a separate information collection request to OMB for approval.

*Title of Collection:* DOI Generic Clearance for Crowdsourcing and Citizen Science Activities.

*OMB Control Number:* 1093-New.

*Form Number:* None.

*Type of Review:* New.

*Respondents/Affected Public:* Individuals/households; private sector; and, State, local, and Tribal governments.

*Total Estimated Number of Annual Respondents:* 1,000,000.

*Total Estimated Number of Annual Responses:* 3,000,000.

*Estimated Completion Time per Response:* 5 minutes.

*Total Estimated Number of Annual Burden Hours:* 250,000.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Jeffrey Parrillo,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2021–05695 Filed 3–18–21; 8:45 am]

BILLING CODE 4334–63–P

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–663–664 and 731–TA–1555–1556 (Preliminary)]**

## Granular Polytetrafluoroethylene Resin From India and Russia; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

of granular polytetrafluoroethylene resin from India and Russia, provided for in subheading 3904.61.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the governments of India and Russia.[2]

**Commencement of Final Phase Investigations**

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in § 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under §§ 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under §§ 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

**Background**

On January 27, 2021, Daikin America, Inc., Orangeburg, New York, filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of granular polytetrafluoroethylene resin from India and Russia. Accordingly, effective January 27, 2021, the Commission instituted countervailing duty investigation Nos. 701–TA–663–664 and antidumping duty investigation Nos. 731–TA–1555–1556 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 2, 2021 (86 FR 7876). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its conference through written testimony and video conference on February 17, 2021. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on March 15, 2021. The views of the Commission are contained in USITC Publication 5174 (March 2021), entitled *Granular Polytetrafluoroethylene Resin from India and Russia: Investigation Nos. 701–TA–663–664 and 731–TA–1555–1556 (Preliminary).*

By order of the Commission.
Issued: March 15, 2021.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2021–05680 Filed 3–18–21; 8:45 am]

**BILLING CODE 7020–02–P**

[2] 86 FR 10926 and 86 FR 10931 (February 23, 2021).

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OJP (OJP) Docket No. 1789]**

### Meeting of the Global Justice Information Sharing Initiative Federal Advisory Committee

**AGENCY:** Office of Justice Programs (OJP), Justice.

**ACTION:** Notice of meeting.

**SUMMARY:** This is an announcement of a meeting of the Global Justice Information Sharing Initiative (Global) Federal Advisory Committee (GAC) to discuss the Global Initiative, as described at *https://bja.ojp.gov/program/it/global.* Due to ongoing COVID–19 mitigation restrictions, this meeting will be held virtually. Approved observers will receive the log-in information prior to the meeting.

**DATES:** The meeting will take place on Monday April 12, 2021 from 1:00 p.m. to 4:30 p.m. ET.

**ADDRESSES:** The meeting will be held virtually via Zoom for Government. Approved observers will receive the login/sign-in information via email prior to the meeting.

**FOR FURTHER INFORMATION CONTACT:** Mr. David P. Lewis, Global Designated Federal Official (DFO), Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street, Washington, DC 20531; Phone (202) 616–7829 [note: this is not a toll-free number]; Email: *david.p.lewis@usdoj.gov.*

**SUPPLEMENTARY INFORMATION:** This meeting is open to the public, however, members of the public who wish to attend this meeting must register with Mr. David P. Lewis at least (7) days in advance of the meeting. Access to the virtual meeting room will not be allowed without prior authorization. All attendees will be required to virtually sign-in via Zoom before they will be admitted to the virtual meeting.

Anyone requiring special accommodations should notify Mr. Lewis at least seven (7) days in advance of the meeting.

*Purpose:* The GAC will act as the focal point for justice information systems integration activities in order to facilitate the coordination of technical, funding, and legislative strategies in support of the Administration's justice priorities.

The GAC will guide and monitor the development of the Global information sharing concept. It will advise the Assistant Attorney General, OJP; the Attorney General; the President (through the Attorney General); and local, state, tribal, and federal policymakers in the executive, legislative, and judicial branches. The GAC will also advocate for strategies for accomplishing a Global information sharing capability.

Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the Global DFO.

**David P. Lewis,**

*Global DFO, Senior Policy Advisor, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice.*

[FR Doc. 2021–05691 Filed 3–18–21; 8:45 am]

**BILLING CODE 4410–18–P**

## NATIONAL SCIENCE FOUNDATION

### Request for Public Comment: Interagency Arctic Research Policy Committee Draft Arctic Research Plan; Correction

**AGENCY:** National Science Foundation.

**ACTION:** Notice; correction.

**SUMMARY:** The National Science Foundation (NSF) published a document in the **Federal Register** of March 9, 2021, concerning a request for public comment on the draft Arctic Research Plan: 2022–2026. The notice was published with two due dates for comments.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** of March 9, 2021, in FR Doc. 2021–04842, on page 13588, in the second column, correct the first sentence of the **DATES** caption to read:

**DATES:** Written comments must be submitted no later than June 11, 2021.

Dated: March 9, 2021.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2021–05201 Filed 3–18–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2015–0287]**

## Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Regulatory guide, issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 of Regulatory Guide (RG) 5.75, ''Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities.'' This RG updates training and qualification guidance that incorporates lessons learned and reflects changes that have been made in associated rules and guidance documents since the original publication of the guide. This guide describes approaches and methodologies that the NRC staff considers acceptable for the training and qualification of all personnel who are assigned duties and responsibilities required for the implementation of the Commission-approved security plans, licensee response strategies, and implementing procedures at nuclear power reactor facilities.

**DATES:** Revision 1 of RG 5.75 is available on March 19, 2021.

**ADDRESSES:** Please refer to Docket ID NRC–2015–0287 when contacting the NRC about the availability of information regarding this document. You may access publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2015–0287. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

Revision 1 to RG 5.75 and the regulatory analysis may be found in ADAMS under Accession Nos. ML17111A699 and ML14297A274 respectively.

Regulatory guides are not copyrighted, and the NRC's approval is not required to reproduce them.

**FOR FURTHER INFORMATION CONTACT:** Kris Jamgochian, Office of Nuclear Security and Incident Response, telephone: 301–287–3542; email: *Kris.Jamgochian@nrc.gov* or Mekonen Bayssie, Office of Nuclear Regulatory Research, telephone: 301–415–1699; email: *Mekonen.Bayssie@nrc.gov*. Both are staff members of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

### I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 1 of RG 5.75 was issued with a temporary identification of Draft Regulatory Guide (DG), DG–5043. This RG clarifies guidance that licensees and applicants should use to select, train, equip, test, qualify, and re-qualify armed and unarmed security personnel, watchpersons, and members of the licensee staff that support the licensee's security organization to ensure that these individuals possess and maintain the knowledge, skills, and abilities required to carry out their assigned duties and responsibilities effectively. This revision clarifies the staff guidance for the training and qualification requirements delineated in Section VI of Appendix B to title 10 of the *Code of Federal Regulations* (10 CFR), Part 73 ''Physical Protection of Plants and Materials.'' The revised RG also updates training and qualification guidance that incorporates lessons learned and reflects changes that have been made in associated rules and guidance documents since the original publication of the guide.

In particular, this revision provides more comprehensive discussion of the objectives for training and qualifying licensee and contractor security personnel, as well as training and qualifying those personnel who support the licensee's security program but are not direct members of the licensee's security staff or contractors to the security organization. This revision also provides additional clarification on aspects of the training and qualification process that the staff has determined would be helpful for licensees in implementing their performance evaluation programs. This revision contains a broad discussion of tactical response drills and Force on Force exercises, including follow-on critiques, which has been added to ensure that licensees have ample guidance for effective and complete drill and exercise management, from planning through conclusion.

### II. Additional Information

The NRC published a notice of availability of DG–5043 in the **Federal Register** on December 29, 2015 (80 FR 81376) for a 60-day public comment period. The public comment period ended on February 29, 2016. Public comments on DG–5043 and the NRC's responses to the public comments are available in ADAMS under Accession No. ML17111A698.

### III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

## IV. Backfitting and Issue Finality

Revision 1 of RG 5.75 describes a method that the staff of the NRC considers acceptable for use by nuclear power plant licensees in meeting the requirements for training and qualification of security personnel as set forth in Section VI of Appendix B to 10 CFR part 73, ''Physical Protection of Plants and Materials.'' Issuance of this RG, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the backfit rule) and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52 ''Licenses, Certifications, and Approvals for Nuclear Power Plants.'' As discussed in the ''Implementation'' section of this RG, the NRC has no current intention to impose this guide, if finalized, on holders of current operating licenses or combined licenses.

This RG may be applied to applications for operating licenses and combined licenses docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications submitted after the issuance of the regulatory guide. Such action would not constitute backfitting as defined in the backfit rule or be otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants or potential applicants are not entities within the scope of the backfit rule or the relevant issue finality provisions in Part 52. Neither Section 50.109 nor the issue finality provisions under 10 CFR part 52 with certain exceptions, was intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are whenever an applicant references a Part 52 license (*e.g.,* an early site permit) and/or NRC regulatory approval (*e.g.,* a design certification rule, a standard design approval) with specified issue finality provisions. However, the scope of issue finality provided extends only to the matters resolved in the license or regulatory approval. Early site permits, design certification rules, and standard design approvals typically do not address or resolve compliance with operational programs such as the security personnel requirements in 10 CFR part 73. Therefore, no applicant referencing an early site permit, design certification rule, or standard design approval would be entities within the scope of the relevant issue finality provisions with respect to the security matters addressed in this draft regulatory guide.

Dated: March 16, 2021.

For the Nuclear Regulatory Commission.

**Meraj Rahimi,**

*Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. 2021–05731 Filed 3–18–21; 8:45 am]

**BILLING CODE 7590–01–P**

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## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–331; NRC–2021–0066]**

## NextEra Energy Duane Arnold, LLC; Duane Arnold Energy Center

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental assessment and finding of no significant impact; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of exemptions that would permit the licensee to reduce its emergency planning (EP) activities at the Duane Arnold Energy Center (DAEC). Specifically, the licensee is seeking exemptions that would eliminate the requirements for the licensee to maintain offsite radiological emergency plans, as well as reduce some of the onsite EP activities based on the reduced risks at DAEC, which is permanently shut down and defueled. However, requirements for certain onsite capabilities to communicate and coordinate with offsite response authorities would be retained. In addition, offsite EP provisions would still exist through State and local government use of a comprehensive emergency management plan process, in accordance with the Federal Emergency Management Agency's (FEMA's) Comprehensive Preparedness Guide (CPG) 101, ''Developing and Maintaining Emergency Operations Plans.'' The NRC staff is issuing a final Environmental Assessment (EA) and final Finding of No Significant Impact (FONSI) associated with the proposed exemptions.

**DATES:** The EA and FONSI referenced in this document are available on March 19, 2021.

**ADDRESSES:** Please refer to Docket ID NRC–2021–0066 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0066. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. In addition, for the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the AVAILABILITY OF DOCUMENTS section of this document.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Marlayna V. Doell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3178; email: *Marlayna.Doell@nrc.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

By letter dated January 18, 2019 (ADAMS Accession No. ML19023A196), NextEra Energy Duane Arnold, LLC (NEDA, the licensee) certified to the NRC that it planned to permanently cease power operations at DAEC in the fourth quarter of 2020. By letter dated March 2, 2020 (ADAMS Accession No. ML20062E489), NEDA updated its timeline and certified to the NRC that it planned to permanently cease power operations at DAEC on October 30, 2020. By letter dated August 27, 2020 (ADAMS Accession No. ML20240A067), NEDA certified to the NRC that power operations permanently ceased at DAEC on August 10, 2020, and, by letter dated October 12, 2020 (ADAMS Accession No. ML20286A317), that the fuel was permanently removed from the DAEC reactor vessel and placed in the spent

fuel pool (SFP) as of October 12, 2020. Accordingly, pursuant to section 50.82(a)(2) of title 10 of the *Code of Federal Regulations* (10 CFR), the DAEC renewed facility operating license no longer authorizes operation of the reactor or emplacement or retention of fuel in the reactor vessel. The facility is still authorized to possess and store irradiated (*i.e.,* spent) nuclear fuel. Spent fuel is currently stored onsite at the DAEC facility in the SFP and in a dry cask independent spent fuel storage installation.

By letter dated April 2, 2020 (ADAMS Accession No. ML20101M779), as supplemented by letter dated October 7, 2020 (ADAMS Accession No. ML20282A595), NEDA requested exemptions from certain EP requirements in 10 CFR part 50 for DAEC.

The NRC regulations concerning EP do not recognize the reduced risks after a reactor is permanently shut down and defueled. As such, a permanently shutdown and defueled reactor must continue to maintain the same EP requirements as an operating power reactor under the existing regulatory requirements. To establish a level of EP commensurate with the reduced risks of a permanently shutdown and defueled reactor, the licensee requires exemptions from certain EP regulatory requirements before it can change its emergency plans.

The NRC is considering issuing to the licensee exemptions from portions of 10 CFR 50.47, ''Emergency plans,'' and appendix E to 10 CFR part 50, ''Emergency Planning and Preparedness for Production and Utilization Facilities,'' which would eliminate the requirements for the licensee to maintain offsite radiological emergency plans in accordance with 44 CFR, ''Emergency Management and Assistance,'' part 350, ''Review and Approval of State and Local Radiological Emergency Plans and Preparedness,'' and reduce some of the onsite EP activities based on the reduced risks 10 months after DAEC has permanently ceased power operations.

Consistent with 10 CFR 51.21, the NRC has determined that an EA is the appropriate form of environmental review for the requested action. Based on the results of the EA, which is provided in Section II of this document, the NRC has determined not to prepare an environmental impact statement for the proposed action and is issuing a FONSI.

## II. Environmental Assessment

### *Description of the Proposed Action*

The proposed action would exempt the licensee from: (1) Certain standards as set forth in 10 CFR 50.47(b) regarding onsite and offsite emergency response plans for nuclear power reactors; (2) requirements in 10 CFR 50.47(c)(2) to establish plume exposure and ingestion pathway emergency planning zones (EPZs) for nuclear power reactors; and (3) certain requirements in 10 CFR part 50, appendix E, section IV, ''Content of Emergency Plans,'' which establishes the elements that make up the content of emergency plans. The proposed action of granting these exemptions would eliminate the requirements for the licensee to maintain offsite radiological emergency plans in accordance with 44 CFR part 350 and reduce some of the onsite EP activities at DAEC, based on the reduced risks once the reactor has been permanently shut down for a period of 10 months. However, requirements for certain onsite capabilities to communicate and coordinate with offsite response authorities would be retained to an extent consistent with the approved exemptions.

Additionally, if necessary, offsite protective actions could still be implemented using a comprehensive emergency management plan (CEMP) process. A CEMP in this context, also referred to as an emergency operations plan (EOP), is addressed in FEMA's CPG 101. The CPG 101 is the foundation for State, territorial, tribal, and local EP in the United States under the National Preparedness System. It promotes a common understanding of the fundamentals of risk-informed planning and decision making and assists planners at all levels of government in their efforts to develop and maintain viable, all-hazards, all-threats emergency plans. An EOP is flexible enough for use in all emergencies. It describes how people and property will be protected; details who is responsible for carrying out specific actions; identifies the personnel, equipment, facilities, supplies, and other resources available; and outlines how all actions will be coordinated. A CEMP is often referred to as a synonym for ''all-hazards'' planning. The proposed action is in accordance with the licensee's application dated April 2, 2020, as supplemented by letter dated October 7, 2020.

### *Need for the Proposed Action*

The proposed action is needed for the licensee to revise the DAEC Emergency Plan once the reactor has been permanently shut down for a period of 10 months. The EP requirements currently applicable to DAEC are for an operating power reactor. Since the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel have been docketed, pursuant to 10 CFR 50.82(a)(2), the DAEC license no longer authorizes use of the facility for power operation or emplacement or retention of fuel into the reactor vessel and, therefore, the occurrence of postulated accidents associated with DAEC reactor operation is no longer credible. However, there are no explicit regulatory provisions distinguishing EP requirements for a power reactor that has been permanently shut down and defueled from those for an operating power reactor.

In its exemption request, the licensee identified three possible radiological accidents at DAEC in its permanently shutdown and defueled condition. These are: (1) A fuel-handling accident; (2) a complete loss of SFP inventory; and (3) an adiabatic heat up of the hottest fuel assembly. The NRC staff evaluated these possible radiological accidents in the Commission Paper (SECY) 21–0006, ''Request by NextEra Energy Duane Arnold, LLC for Exemptions from Certain Emergency Planning Requirements for the Duane Arnold Energy Center,'' dated January 15, 2021 (ADAMS Package Accession No. ML20218A875).

In SECY–21–0006, the NRC staff verified that the licensee's analyses and calculations provided reasonable assurance that if the requested exemptions were granted, then: (1) For a design-basis accident (DBA), an offsite radiological release will not exceed the early phase protective action guides (PAGs) at the site boundary, as detailed in Table 1–1, ''Summary Table for PAGs, Guidelines, and Planning Guidance for Radiological Incidents,'' to the U.S. Environmental Protection Agency's (EPA's), ''PAG Manual: Protective Action Guides and Planning Guidance for Radiological Incidents,'' EPA–400/R–17/001, dated January 2017; (2) in the highly unlikely event of a beyond DBA resulting in a loss of all SFP cooling, there is sufficient time to initiate appropriate mitigating actions; and (3) in the event a radiological release has or is projected to occur, there would be sufficient time for offsite agencies to take protective actions using a CEMP to protect the health and safety of the public if offsite governmental officials determine that such action is warranted. The Commission approved the NRC staff's recommendation to grant the exemptions based on this evaluation

in its Staff Requirements Memorandum to SECY–21–0006, dated February 11, 2021 (ADAMS Accession No. ML21042A030).

Based on these analyses, the licensee states that complete application of the EP rule to DAEC 10 months after its permanent cessation of power operations would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. The licensee also states that it would incur undue costs in the application of operating plant EP requirements for the maintenance of an emergency response organization in excess of that actually needed to respond to the diminished scope of credible accidents for DAEC 10 months after its permanent cessation of power operations.

*Environmental Impacts of the Proposed Action*

The NRC staff has completed its evaluation of the environmental impacts of the proposed action.

The proposed action consists mainly of changes related to the elimination of requirements for the licensee to maintain offsite radiological emergency plans in accordance with 44 CFR part 350 and reduce some of the onsite EP activities at DAEC, based on the reduced risks once the reactor has been permanently shut down for a period of 10 months. However, requirements for certain onsite capabilities to communicate and coordinate with offsite response authorities will be retained and offsite EP provisions to protect public health and safety will still exist through State and local government use of a CEMP.

With regard to potential nonradiological environmental impacts, the proposed action would have no direct impacts on land use or water resources, including terrestrial and aquatic biota, as it involves no new construction or modification of plant operational systems. There would be no changes to the quality or quantity of nonradiological effluents and no changes to the plants' National Pollutant Discharge Elimination System permits would be needed. In addition, there would be no noticeable effect on socioeconomic conditions in the region, no environment justice impacts, no air quality impacts, and no impacts to historic and cultural resources from the proposed action. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

With regard to potential radiological environmental impacts, as previously stated, the proposed action would not increase the probability or consequences of radiological accidents. Additionally, the NRC staff has concluded that the proposed action would have no direct radiological environmental impacts. There would be no change to the types or amounts of radioactive effluents that may be released and, therefore, no change in occupational or public radiation exposure from the proposed action. Moreover, no changes would be made to plant buildings or the site property from the proposed action. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

*Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the NRC staff considered the denial of the proposed action (*i.e.,* the ''no-action'' alternative). The denial of the application would result in no change in current environmental impacts. Therefore, the environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

There are no unresolved conflicts concerning alternative uses of available resources under the proposed action.

*Agencies or Persons Consulted*

No additional agencies or persons were consulted regarding the environmental impact of the proposed action. On February 23, 2021, the State of Iowa representative was notified of this EA and FONSI.

## III. Finding of No Significant Impact

The licensee has proposed exemptions from: (1) Certain standards in 10 CFR 50.47(b) regarding onsite and offsite emergency response plans for nuclear power reactors; (2) the requirements in 10 CFR 50.47(c)(2) to establish plume exposure and ingestion pathway EPZs for nuclear power reactors; and (3) certain requirements in 10 CFR part 50, appendix E, section IV, which establishes the elements that make up the content of emergency plans. The proposed action of granting these exemptions would eliminate the requirements for the licensee to maintain offsite radiological emergency plans in accordance with 44 CFR part 350 and reduce some of the onsite EP activities at DAEC, based on the reduced risks once the reactor has been permanently shut down for a period of 10 months. However, requirements for certain onsite capabilities to communicate and coordinate with offsite response authorities will be retained and offsite EP provisions to protect public health and safety will still exist through State and local government use of a CEMP.

The NRC is considering issuing the exemptions. The proposed action would not significantly affect plant safety, would not have a significant adverse effect on the probability of an accident occurring, and would not have any significant radiological or nonradiological impacts. This FONSI incorporates by reference the EA in Section II of this document. Therefore, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

The related environmental document is the ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Duane Arnold Energy Center, Final Report,'' NUREG–1437, Supplement 42, dated October 2010 (ADAMS Accession No. ML102790308), which provides the latest environmental review of current operations and description of environmental conditions at DAEC.

## IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

| Document description | ADAMS accession No./web link |
|---|---|
| Federal Emergency Management Agency, Developing and Maintaining Emergency Operations Plans, Comprehensive Preparedness Guide (CPG) 101, Version 2.0, November 2010. | *https://www.fema.gov/media-library-data/20130726-1828-25045-0014/cpg_101_comprehensive_preparedness_guide_developing_and_maintaining_emergency_operations_plans_2010.pdf.* |
| Curtland, D., NextEra Energy Duane Arnold, LLC, letter to U.S. Nuclear Regulatory Commission, ''Request for Exemption from Portions of 10 CFR 50.47 and 10 CFR 50, Appendix E,'' April 2, 2020. | ML20101M779. |

| Document description | ADAMS accession No./web link |
|---|---|
| Curtland, D., NextEra Energy Duane Arnold, LLC, letter to U.S. Nuclear Regulatory Commission, ''Response to Request for Additional Information Relating to Request for Exemption from Portions of 10 CFR 50.47 and 10 CFR 50, Appendix E,'' October 7, 2020. | ML20282A595. |
| Nazar, M., NextEra Energy Duane Arnold, LLC, letter to U.S. Nuclear Regulatory Commission, ''Certification of Permanent Cessation of Power Operations,'' January 18, 2019. | ML19023A196. |
| Curtland, D., NextEra Energy Duane Arnold, LLC, letter to U.S. Nuclear Regulatory Commission, ''Certification of Permanent Cessation of Power Operations,'' March 2, 2020. | ML20062E489. |
| Curtland, D., NextEra Energy Duane Arnold, LLC, letter to U.S. Nuclear Regulatory Commission, ''Certification of Permanent Cessation of Power Operations,'' August 27, 2020. | ML20240A067. |
| Curtland, D., NextEra Energy Duane Arnold, LLC, letter to U.S. Nuclear Regulatory Commission, ''Certification of Permanent Removal of Fuel from the Reactor Vessel for Duane Arnold Energy Center,'' October 12, 2020. | ML20286A317. |
| U.S. Environmental Protection Agency, PAG Manual: Protective Action Guides and Planning Guidance for Radiological Incidents, January 2017. | *https://www.epa.gov/sites/production/files/2017-01/documents/epa_pag_manual_final_revisions_01-11-2017_cover_disclaimer_8.pdf.* |
| SECY–21–0006, ''Request by NextEra Energy Duane Arnold, LLC for Exemptions from Certain Emergency Planning Requirements for the Duane Arnold Energy Center,'' January 15, 2021. | ML20218A875 (Package). |
| Staff Requirements Memorandum to SECY-21-0006, ''Request by NextEra Energy Duane Arnold, LLC for Exemptions from Certain Emergency Planning Requirements for the Duane Arnold Energy Center,'' February 11, 2021. | ML21042A030. |
| NUREG–1437, Supplement 42, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Duane Arnold Energy Center, Final Report,'' October 2010. | ML102790308. |

Dated: March 16, 2021.

For the Nuclear Regulatory Commission.

**Bruce A. Watson,**

*Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 2021–05694 Filed 3–18–21; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–409 and 72–046; NRC–2019–0110]**

## In the Matter of LaCrosse*Solutions,* LLC; La Crosse Boiling Water Reactor

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct transfer of license; extending effectiveness of order.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an Order to extend the effectiveness of a September 24, 2019, order, which approved the direct transfer of Possession Only License No. DPR–45 for the La Crosse Boiling Water Reactor (LACBWR) from the current holder, LaCrosse*Solutions,* LLC, to Dairyland Power Cooperative and approved a conforming license amendment, for six months beyond its current March 24, 2021, expiration date.

**DATES:** The Order was issued on March 9, 2021 and was effective upon issuance.

**ADDRESSES:** Please refer to Docket ID NRC–2019–0110 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0110. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The Order extending the effectiveness of the approval of the transfer of license and conforming amendment is available in ADAMS under Accession No. ML21050A310.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Marlayna Doell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3178; email: *Marlayna.Doell@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** The text of the Order is attached.

Dated: March 15, 2021.

For the Nuclear Regulatory Commission.

**Bruce A. Watson,**

*Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.*

**Attachment—Order Extending the Effectiveness of the Approval of the Transfer of License and Conforming Amendment**

**In the Matter of LaCrosseSolutions, LLC; La Crosse Boiling Water Reactor**

**EA–19–077; Docket Nos. 50–409 and 72–046; License No. DPR–45**

**Order Extending the Effectiveness of the Approval of the Transfer of License and Conforming Amendment**

**I.**

LaCrosse*Solutions,* LLC is the holder of the U.S. Nuclear Regulatory Commission (NRC, the Commission) Possession Only License No. DPR–45, with respect to the possession, maintenance, and decommissioning of the La Crosse Boiling Water Reactor (LACBWR). Operation of the LACBWR is no longer authorized under this license. The LACBWR facility is located in Vernon County, Wisconsin.

**II.**

By Order dated September 24, 2019 (Transfer Order), the Commission consented to the transfer of the LACBWR license to Dairyland Power Cooperative and approved a conforming license amendment in accordance with Section 50.80, ''Transfer of licenses,'' and Section 50.90, ''Application for amendment of license, construction permit, or early site permit,'' of Title 10 of the *Code of Federal Regulations* (10 CFR). By its terms, the Transfer Order becomes null and void if the license transfer is not completed within one year unless, upon application and for good cause shown, the Commission extends the Transfer Order's September 24, 2020, expiration date. By letter dated June 24, 2020, LaCrosse*Solutions,* LLC submitted a request to extend the effectiveness of the Transfer Order by six months, until March 24, 2021. This request was approved by the NRC on September 1, 2020.

**III.**

In a subsequent letter dated February 2, 2021, LaCrosse*Solutions,* LLC submitted a second request to extend the effectiveness of the Transfer Order by an additional six months, until September 24, 2021. As stated in the February 2, 2021, letter, the LACBWR Final Status Survey Final Reports (FSSRs), their associated Release Records, and responses to NRC staff requests for additional information (RAIs) are currently under review by the staff. The letter noted that, based on the current status of the NRC review, it is anticipated that additional time will be needed to address questions or potential issues identified by the NRC staff during its review of the RAI responses and revised LACBWR FSSRs. The letter also stated that the extension would allow adequate time for response development by LaCrosse*Solutions,* LLC, regarding possible additional questions or potential issues, and for the NRC staff to assess the responses provided by LaCrosse*Solutions,* LLC and to make a final determination regarding the release of the majority of the LACBWR site for unrestricted use.

Based on the above, the NRC has determined that LaCrosse*Solutions,* LLC has shown good cause for extending the effectiveness of the Transfer Order by an additional six months, as requested.

**IV.**

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the expiration date of the Transfer Order of March 24, 2021, is extended until September 24, 2021. If the subject license transfer from LaCrosse*Solutions,* LLC to Dairyland Power Cooperative is not completed by September 24, 2021, the Transfer Order shall become null and void; provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the extension request dated February 2, 2021, which is available electronically through ADAMS in the NRC Library at *https://www.nrc.gov/reading-rm/adams.html* under Accession No. ML21036A055. Persons who encounter problems with ADAMS should contact the NRC's Public Document Room reference staff by telephone at 1–800–397–4209 or 301–415–4737 or by email to *pdr.resource@nrc.gov.*

Dated this 9th day of March 2021.

For the Nuclear Regulatory Commission.

John W. Lubinski,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021–05681 Filed 3–18–21; 8:45 am]

**BILLING CODE 7590–01–P**

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## NUCLEAR REGULATORY COMMISSION

**[NRC–2016–0178]**

## Enhancing Participation in NRC Public Meetings

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Revision to policy statement; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has revised its policy statement, ''Enhancing Participation in NRC Public Meetings,'' to further clarify and enhance participation in public meetings conducted by the NRC. The revised policy statement redefines the three categories of public meetings and identifies the level of public participation offered at each category of meeting. The revised policy statement also clarifies notification expectations for meetings that include physical presence in the meeting room and meetings that rely solely on remote access technology such as teleconferencing. The revisions will improve the consistency of the NRC's public meetings and help participants better prepare for NRC meetings.

**DATES:** This policy statement is effective on March 19, 2021.

**ADDRESSES:** Please refer to Docket ID NRC–2016–0178 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2016–0178. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: *Dawn.Forder@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The policy statement, ''Enhancing Public Participation in NRC Meetings,'' is available as an attachment to this document.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *PDR.Resource@nrc.gov* or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Dennis, Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0760; email: *Suzanne.Dennis@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

The NRC has had a formal policy regarding open meetings since 1978; the most recent revision was issued in 2002. In 2014 (ADAMS Accession No. ML14149A323), the NRC assembled a task group to complete a comprehensive look at the NRC's public meeting policies, processes, and guidance, including their implementation, and to work toward making improvements to those aspects of the agency's work. The task group on Enhancing NRC Public Meetings was formed in June 2014, and produced a set of recommendations in January 2015 (ADAMS Accession No. ML15029A456).

In SECY–16–0007, ''Proposed Revisions to Policy Statement on Enhancing Public Participation in NRC Meetings,'' dated January 22, 2016 (ADAMS Accession No. ML15282A074), the NRC staff provided its proposed revisions to the NRC's policy statement on public meetings to address the task group's recommendations. The proposed revisions modified the public meeting categorization system and redefined the three categories of public meetings. The proposed revisions also included topics such as civility at NRC public meetings and NRC staff innovation with meeting formats. In the staff requirements memorandum (SRM) for SECY–16–0007, dated June 24, 2016 (ADAMS Accession No. ML16176A227), the Commission approved the proposed revisions to the policy statement for publication in the **Federal Register** for public comment. The Commission also directed the NRC staff to hold a public meeting related to the revised policy statement in order to have a dialogue on the expectations for and by stakeholders at NRC public meetings.

The draft revisions to the policy statement were published in the **Federal Register** on August 31, 2016 (81 FR 60026). On September 29, 2016, the NRC staff conducted a public meeting to provide information regarding the proposed revisions to the policy statement (ADAMS Accession No. ML16274A128). Additionally, the NRC staff provided information regarding the proposed revisions to the policy statement in a September 19, 2016, blog post *(https://public-blog.nrc-gateway.gov/2016/09/19/back-to-basics-seeking-comment-on-a-new-commission-public-meeting-policy/).*

## II. Overview of Public Comments

In response to the proposed revisions to the policy statement, the NRC received 30 comments from 7 members of the public. Based on the public comments, the NRC staff made several modifications to improve the clarity of the policy statement. This section provides a summary of the changes made to the policy statement as a result of comments and includes discussion of comments that the NRC did not accept.

The NRC updated the ''Level of Participation'' section for Observation Meetings to clarify that members of the public can pose questions to the NRC during Observation Meetings and that licensees or other parties are not precluded from responding to questions during Observation Meetings.

The NRC updated the ''Notice and Access'' section of the policy statement to state that the NRC will ensure that public meeting notices are sent out to interested stakeholders using the mechanisms available, such as the applicable NRC listservs.

The NRC updated the ''Participation in NRC Public Meetings'' section to include a statement that the NRC should always be open to listening and responding to questions from members of the public, regardless of when the interaction occurs.

The NRC updated the ''Notice and Access'' section of the policy statement to state that the NRC will ensure that available ADAMS documents related to the topic of the meeting are linked to the meeting notice as background documents to the extent practical.

The NRC updated the descriptions of all three categories of meetings to include a statement that the NRC should strive to ensure sufficient time for the meeting so that members of the public can pose their questions and have them answered during the meeting to the extent practical and that, whether all questions are addressed or not, the NRC should emphasize ways members of the public can ask questions outside of the meeting.

The NRC disagreed with three public comments. The NRC disagreed with a comment that bridge line numbers should be included in all meeting notices. There are times when the NRC staff requests that those interested in calling in to a meeting contact an NRC staff member for the bridge line information so that the NRC staff can understand in advance how many participants plan to call in to a meeting and set up a bridge line with the capacity to handle the expected number of callers. The NRC also disagreed with two comments that the NRC should notify the public 1 month in advance of public meetings, stating that the NRC policy is to post meeting notices a minimum of 10 days before a meeting and, if at all possible, the NRC staff announces meetings earlier. The NRC believes that the current policy of providing a minimum of 10 days notice before a public meeting provides the public with sufficient notice of upcoming public meetings without compromising the NRC staff's ability to conduct public meetings on time-sensitive or emerging issues.

The NRC concluded that the remaining comments were either already included in the proposed revision to the policy statement or that the comments were best addressed in detail in staff-level guidance.

## III. Procedural Requirements

*Congressional Review Act Statement*

This Policy Statement is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

*Paperwork Reduction Act Statement*

This Policy Statement does not contain new or amended information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: March 16, 2021.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

**Attachment—Commission Policy Statement on Enhancing Participation in NRC Public Meetings**

**A. Purpose.**

The U.S. Nuclear Regulatory Commission's (NRC) longstanding practice is to provide the public with substantial information on its activities, to conduct business in an open manner, and to balance openness and transparency with the need to exercise regulatory and safety responsibilities without undue administrative burden. The NRC's policy is to open meetings between the agency staff and one or more outside persons to observation and participation to the extent possible. The NRC has had a formal policy regarding open (public) meetings since 1978. The Commission's policy statement, ''Enhancing Public Participation in NRC Meetings,'' was last issued in 2002 (67 FR 36920).

This policy establishes three public meeting categories based on the level of participation offered to attendees. The policy provides information such as descriptions of each category, information on how public meetings are announced, post-meeting activities, and applicability and exceptions.

*B. Participation in NRC Public Meetings.*

Consistent with the NRC's commitment to openness, the level of participation, purpose, and description for each category of public meeting are described below. When assigning a category to a meeting, the NRC staff will

consider the objective of the meeting and the extent of known public interest in the topic. The NRC staff should always be open to listening to members of the public and responding to questions, regardless of when the interaction occurs.

The three meeting categories are based on the level of public participation to be provided at each type of meeting. Therefore, some categories may support multiple meeting formats. The label for each category provides an indication of the level of participation meeting attendees can expect.

The NRC is committed to providing an atmosphere of civility and inclusion at its public meetings. All participants are expected to follow established ground rules, including those provided in the applicable meeting notice posted on the NRC's public website, to support this atmosphere of civility and inclusion regardless of personal viewpoints. If the actions of one or more participants significantly impact other participants' ability to observe or participate in a meeting, the NRC staff shall take appropriate actions to restore a more respectful environment or end a meeting early, if necessary.

*Observation Meeting*

Meeting Purpose—The purpose of this type of meeting is for the NRC to meet with representatives from one or more groups in an open and transparent manner to discuss regulatory and technical matters. The meeting will inform the public by providing information to help them understand the applicable regulatory issues and NRC actions.

Level of Participation—Other attendees besides the representatives noted above are invited to observe the meeting and discuss regulatory issues with, and pose questions to, the NRC representatives at a designated point or points identified on the agenda. This does not preclude the licensee or other parties from responding to questions if they choose to do so. The NRC staff should strive to ensure sufficient time is allotted for an Observation Meeting to ensure that members of the public can pose questions and have them answered during the meeting. Whether all questions are addressed or not, the NRC staff should emphasize ways members of the public can ask questions outside the meeting.

Description—Meetings in this category include the NRC meeting with one or more industry groups, licensees, vendors, applicants, potential applicants, or non-government organizations, to discuss regulatory issues regarding a specific facility (or facilities), certificates of compliance, licenses, or license applications. This category of meeting could also include the NRC meeting with representatives of task force groups, industry groups, or public interest and citizen groups. The primary discussions are expected to occur between the NRC and representatives of those entities or groups.

The following description will be included in an Observation Meeting notice:

This is a meeting in which attendees will have an opportunity to observe the NRC performing its regulatory function or discussing regulatory issues. Attendees will have an opportunity to ask questions of the NRC staff or make comments about the issues discussed following the business portion of the meeting, however the NRC is not actively soliciting comments towards regulatory decisions at this meeting.

Examples—Meetings of this category may include meetings with licensees (or applicants) to discuss license renewal, amendment or exemption requests; meetings with applicants related to topical report reviews, combined licenses, early site permits, or design certifications; annual public meetings to discuss plant performance as part of the Reactor Oversight Process; renewals, or amendments. Certain inspection exit meetings, such as those for Incident Investigation Teams or Augmented Inspection Teams, are included under this category.

*Information Meeting With a Question and Answer Session*

Meeting Purpose—The purpose of this type of meeting is for the NRC to share information and discuss applicable regulatory issues and NRC actions with meeting attendees. The meeting will inform the public by providing information to help them understand the applicable regulatory issues and NRC actions through NRC presentations and discussions with NRC staff. These are organized, yet informal opportunities to interact with and ask questions of the NRC staff not associated with a more traditional public meeting format.

Level of Participation—This type of meeting is tailored to inform attendees and allow them to ask questions. The NRC staff should strive to ensure sufficient time is allotted for an Information Meeting with a Question and Answer Session to ensure that members of the public can pose their questions and have them answered during the meeting. Whether all questions are addressed or not, the NRC should emphasize ways members of the public can ask questions outside the meeting.

Description—Meetings in this category are held with interested parties, including representatives of non-government organizations, private citizens, or various businesses or industries, to engage them in a discussion of regulatory issues.

The following description will be included in the notice for an Information Meeting with a Question and Answer Session:

The purpose of this meeting is for the NRC staff to meet directly with individuals to discuss regulatory and technical issues. Attendees will have an opportunity to ask questions of the NRC staff or make comments about the issues discussed throughout the meeting, however the NRC is not actively soliciting comments towards regulatory decisions at this meeting.

Examples—Meetings of this category may include town hall and roundtable discussions, and open house meetings.

*Comment-Gathering Meeting*

Meeting Purpose—The purpose of this type of meeting is for the NRC to obtain feedback on regulatory issues and NRC actions. In most cases, the meeting will include a presentation by the NRC to explain the regulatory issue or action. The feedback received at these meetings is used to support actions such as licensing and rulemaking activities.

Level of Participation—This type of meeting is focused on allowing attendees to provide opinions, perspectives, and feedback. The NRC staff should strive to ensure sufficient time is allotted for a Comment-Gathering Meeting to ensure that members of the public can pose questions and have them answered during the meeting. Whether all questions are addressed or not, the NRC should emphasize ways members of the public can ask questions outside the meeting.

Description—This type of meeting would be held with a broad range of interested parties, including representatives of non-government organizations, private citizens, or various businesses or industries, to fully engage them in a discussion of a specific regulatory issue.

The following description will be included in the notification of a Comment-Gathering Meeting:

The purpose of this meeting is for NRC staff to meet directly with individuals to receive comments from participants on specific NRC decisions and actions to ensure that NRC staff understands their views and concerns.

The notice for such meetings should include details as to how comments will be taken at the meeting (*e.g.,* NRC staff taking notes, or creating a transcript of the meeting) and how NRC will use the comments (*e.g.,* to inform NRC discussions, or as official comments related to a formal NRC regulatory decision), as well as to clarify whether participants will need to also submit comments made at the meeting in writing to receive formal consideration.

Examples—Meetings of this category may include town hall and roundtable discussions, environmental impact statement scoping meetings, and workshops.

*C. Notice and Access.*

Although the extent of meeting outreach and preparation by NRC staff can be different for each meeting, certain steps are usually taken. Meeting information will be announced as soon as the NRC staff is reasonably confident that a meeting will be held and firm date, time, and facility arrangements have been made. This will generally occur no fewer than 10 days before a meeting. When a meeting must be scheduled but cannot be announced within the 10-day timeframe, the NRC staff will provide as much advance notice as possible.

Public notice of meetings will be made through the NRC's Public Meetings & Involvement web page at *https://www.nrc.gov/public-involve.html.* Meeting changes or cancellations will also be announced promptly on this web page. Individuals who cannot access the NRC's public website can contact the NRC's PDR staff via a toll-free number (1–800–397–4209) or by email (*pdr.resource@nrc.gov*) for information on scheduled NRC meetings. Some meetings, specifically meetings with a high level of public interest, may also be noticed in the **Federal Register** or through

other means such as a press release, blog post, or advertisement in local newspapers. The NRC staff will ensure that public meeting notices are sent out to interested stakeholders using the mechanisms available, such as the applicable NRC listservs.

Meeting details and materials such as an agenda, names of participants, and background documents will be entered into the NRC's Public Meeting Schedule website. A link to the materials as well as the Agencywide Documents Access and Management System (ADAMS) accession number for additional meeting materials such as presentations will, when possible, be provided in the meeting notice on the NRC's public website under the ''Public Meetings & Involvement'' web page at *https://www.nrc.gov/public-involve.html.* The NRC staff will ensure that available ADAMS documents related to the topic of the meeting are linked to the meeting notice as background documents to the extent practical.

Audio teleconferencing and other technologies that allow participation from locations other than a meeting room will be used whenever possible to help ensure widespread involvement in meetings. If information on how to participate remotely in a meeting is not provided in the meeting notice, individuals may request the use of such technology through the meeting contact listed on the meeting notice. Such requests may be granted to the extent resources are available and technical factors can be accommodated.

**D. After-Meeting Activities.**

The NRC staff will provide answers to questions as appropriate during the public meeting and will inform attendees at the meeting how it plans to address questions that cannot be answered at the meeting. Informal follow-up (telephone or email) may be appropriate. Individuals also have the option of calling, writing, or emailing the NRC staff about particular concerns. NRC staff will either provide feedback forms at public meetings or provide instructions for submitting feedback through the NRC public website so that comments can be reviewed and offices can track any planned improvements or resulting actions. NRC staff will make meeting summaries publicly available in ADAMS following the meeting.

**E. Innovation.**

The NRC staff will make efforts, to find new and innovative ways to interact with individuals, including exploring varied meeting formats and other ways to incorporate technologies that allow participation from locations other than a meeting room. Experiences with new methods will be shared across the agency for information and consideration by other NRC staff.

**F. Applicability and Exceptions.**

This policy applies to planned, formal encounters between NRC staff members and outside individuals or entities, with an expressed intent of discussing substantive issues directly associated with the NRC's regulatory responsibilities. Such meetings will be designated in advance as public meetings, open for public attendance and categorized in accordance with this policy, subject to the following conditions and exceptions:

1. This policy applies solely to NRC staff-sponsored and conducted meetings with an outside individual or entity. It does not apply to a meeting conducted by an outside individual or entity where an NRC staff member might participate, nor when an NRC employee attends a meeting outside of his or her official capacity.

2. This policy does not apply to meetings between the NRC staff and outside individuals or entities who are:

a. Under contract to the NRC;

b. Acting as an official consultant to the NRC;

c. Acting as an official representative of an agency of the executive, legislative, or judicial branch of the U.S. Government (except on matters where the agency is subject to NRC regulatory oversight);

d. Acting as an official representative of a foreign government or representing an international organization such as the International Atomic Energy Agency; or

e. Acting as an official representative of a State or local government or Tribal official.

3. Meetings between the NRC staff and outside individuals or entities will not be designated as public meetings if the NRC staff determines that the subject matter or information to be discussed in the meeting:

a. Is specifically authorized by an Executive Order to be withheld in the interests of national defense or foreign policy (classified information);

b. Is specifically exempt from public disclosure by statute (*e.g.,* safeguards or proprietary information);

c. Is of a personal nature where such disclosure would constitute a clearly unwarranted invasion of personal privacy;

d. Is related to a planned, ongoing, or completed investigation, or contains information compiled for law enforcement purposes;

e. Could compromise the ongoing reviews and inspections associated with an open allegation;

f. Could result in the inappropriate disclosure and dissemination of preliminary, pre-decisional, or unverified information;

g. Is for general information exchange having no direct, substantive connection to a specific NRC regulatory decision or action; however, should discussions in a closed meeting approach issues that might lead to a specific regulatory decision or action, the NRC staff may advise the meeting attendees that such matters cannot be discussed and propose discussing the issues in a future public meeting; or

h. Indicates that the administrative burden associated with public attendance at the meeting could interfere with the NRC staff's execution of its safety and regulatory responsibilities, such as when the meeting is an integral part of the execution of the NRC inspection program.

4. This policy does not apply to Commission meetings, advisory committee meetings, meetings related to financial assistance or acquisition requirements, or to meetings sponsored by offices that report directly to the Commission (for example, the Office of the General Counsel or the Office of the Chief Financial Officer). Similarly, it does not apply to ''government-to-government'' meetings: meetings between NRC staff and representatives of State governments, including Agreement State representatives, relating to NRC Agreement State activities or to State regulatory actions or to other matters of general interest to the State or to the Commission, as well as meetings between NRC staff and representatives of local or Tribal governments. Also, the policy does not apply to or supersede any existing law, rule, or regulation that addresses public attendance at a specific type of meeting. For example, Part 7 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Advisory Committees,'' and 10 CFR part 9, ''Public Records,'' will continue to be applicable to advisory committee meetings and Commission meetings, respectively.

5. This policy does not cover the hearings associated with adjudicatory proceedings under the Commission's Rules of Practice and Procedure set forth in 10 CFR part 2. The term ''hearings'' relates primarily to Commission adjudicatory proceedings on various types of license applications and licensing actions (*e.g.,* applications for initial issuance of a license, amendment of an existing license, renewal of a license) or to enforcement actions involving the imposition of civil penalties or orders to modify, suspend, or revoke a license or take other appropriate action. Specific requirements regarding participation in and the conduct of adjudicatory proceedings (including the settlement of such proceedings) are provided in the Commission's Rules of Practice and Procedure set forth in 10 CFR part 2. This policy does not cover meetings concerning the settlement of enforcement matters.

6. Certain meetings that would normally be closed under Sections F.3.a. or F.3.b. of this policy may be opened to cleared members of the public who also have a need-to-know. A cleared member of the public is a person who holds a U.S. Government security clearance or has been granted access to Safeguards Information in accordance with 10 CFR 73.22(b).

7. This policy may be applicable to only part of a meeting. For example, an NRC meeting may have a portion that is open to the public and a portion that is closed to the public due to any of the exceptions listed above. In these cases, this policy statement is applicable to the public portion of the meeting only.

8. This policy is a matter of NRC discretion; the NRC reserves the right to depart from any stated conditions as circumstances may warrant.

**G. Contact.**

The primary point of contact in the agency for general issues related to this policy will be the Deputy Assistant for Operations, Office of the Executive Director for Operations. The Office of Public Affairs is also available to receive questions and suggestions. There are also opportunities for comment on our public participation policies, or on many of our programs through

the NRC's website under the ''Public Meetings & Involvement'' web page at *https://www.nrc.gov/public-involve.html.*

[FR Doc. 2021–05787 Filed 3–18–21; 8:45 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–91331; File No. SBSDR–2021–01]**

## Security-Based Swap Data Repositories; ICE Trade Vault, LLC; Notice of Filing of Application for Registration as a Security-Based Swap Data Repository

March 16, 2021.

### I. Introduction

On February 11, 2021, ICE Trade Vault, LLC (''ICE Trade Vault'') filed with the Securities and Exchange Commission (''Commission'') an application on Form SDR to register as a security-based swap data repository (''SDR'') pursuant to Section 13(n)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') and 17 CFR 240.13n-1 (''Rule 13n-1'') thereunder,[1] and as a securities information processor (''SIP'') under Section 11A(b) of the Exchange Act.[2] ICE Trade Vault amended its application on March 10 and March 11, 2021. ICE Trade Vault intends to operate as a registered SDR for security-based swap (''SBS'') transactions in the credit derivatives asset class. The Commission is publishing this notice to solicit comments from interested persons regarding ICE Trade Vault's application,[3] and the Commission will consider any comments it receives in making its determination whether to approve ICE Trade Vault's application for registration as an SDR and as a SIP.

### II. Background

#### *A. SDR Registration, Duties, and Core Principles*

Section 13(n) of the Exchange Act makes it unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of an SDR.[4] To be registered and maintain registration, an SDR must comply with certain requirements and core principles described in Section 13(n), as well as any requirements that the Commission may impose by rule or regulation.[5] In 2015, the Commission adopted 17 CFR 240.13n-1 to 13n-12 under the Exchange Act to establish Form SDR, the procedures for registration as an SDR, and the duties and core principles applicable to an SDR (''SDR Rules'').[6] The Commission provided a temporary exemption from compliance with the SDR Rules and also extended exemptions from the provisions of the Dodd-Frank Act set forth in a Commission order providing temporary exemptions and other temporary relief from compliance with certain provisions of the Exchange Act concerning security-based swaps, and these temporary exemptions expired in 2017.[7]

The Commission also has adopted 17 CFR 242.900 to 909 under the Exchange Act (collectively, ''Regulation SBSR''), which governs regulatory reporting and public dissemination of security-based swap transactions.[8] Among other things, Regulation SBSR requires each registered SDR to register with the Commission as a SIP,[9] and the Form SDR constitutes an application for registration as a SIP, as well as an SDR.[10]

In 2019, the Commission stated that implementation of the SBS Reporting Rules can and should be done in a manner that carries out the fundamental policy goals of the SBS Reporting Rules while minimizing burdens as much as practicable.[11] Noting ongoing concerns among market participants about incurring unnecessary burdens and the Commission's efforts to promote harmonization between the SBS Reporting Rules and swap reporting rules, the Commission took the position that, for four years following Regulation SBSR's Compliance Date 1 in each asset class,[12] certain actions with respect to the SBS Reporting Rules would not provide a basis for a Commission enforcement action.[13] The no-action statement's relevance to ICE Trade Vault's application for registration as an SDR and SIP is discussed further below.

#### *B. Standard for Registration*

As noted above, to be registered with the Commission as an SDR and maintain such registration, an SDR is required to comply with the requirements and core principles described in Section 13(n) of the Exchange Act, as well as with any requirement that the Commission may impose by rule or regulation.[14] In addition, Rule 13n–1(c)(3) under the Exchange Act provides that the Commission shall grant the registration of an SDR if it finds that the SDR is so organized, and has the capacity, to be able to: (i) Assure the prompt, accurate, and reliable performance of its functions as an SDR; (ii) comply with any applicable provisions of the securities laws and the rules and regulations thereunder; and (iii) carry out its functions in a manner consistent with the purposes of Section 13(n) of the Exchange Act and the rules and regulations thereunder.[15] The Commission shall deny the registration of an SDR if it does not make any such finding.[16] Similarly, to be registered with the Commission as a SIP, the Commission must find that such applicant is so organized, and has the capacity, to be able to assure the prompt, accurate, and reliable performance of its functions as a SIP,

[1] 15 U.S.C. 78m(n)(1); 17 CFR 240.13n-1. A copy of ICE Trade Vault's application on Form SDR and all non-confidential exhibits and amendments thereto are available for public viewing on the Commission's website. In 2016, ICE Trade Vault submitted a prior application for registration as an SDR. *See* Release No. 77699 (Apr. 22, 2016), 81 FR 25475 (Apr. 28, 2016); Release No. 34–81223 (July 27, 2017), 82 FR 35844 (Aug. 1, 2017). ICE Trade Vault withdrew this prior application in 2018. *See* Letter from Kara Dutta, General Counsel, ICE Trade Vault, Mar. 23, 2018, *https://www.sec.gov/divisions/marketreg/sdr/ice-trade-vault-sdr-application-withdrawal-letter-032318.pdf.*

[2] 15 U.S.C. 78k–1(b).

[3] The descriptions set forth in this notice regarding the structure and operations of ICE Trade Vault have been derived, excerpted, or summarized from ICE Trade Vault's application on Form SDR.

[4] 15 U.S.C. 78m(n).

[5] *Id.*

[6] *See* Release No. 34–74246 (Feb. 11, 2015), 80 FR 14438, 14438 (Mar. 19, 2015) (''SDR Adopting Release''). In 2016, the Commission subsequently amended 17 CFR 240.13n-4 to address third-party regulatory access to SBS data obtained by an SDR. *See* Release No. 34–78716 (Aug. 29, 2016), 81 FR 60585 (Sep. 2, 2016).

[7] *See* Release No. 34–80359 (Mar. 31, 2017), 82 FR 16867 (Apr. 6, 2017).

[8] Release No. 34–74244 (Feb. 11, 2015), 80 FR 14563 (Mar. 19, 2015); Release No. 34–78321 (July 14, 2016), 81 FR 53546 (Aug. 12, 2016). Regulation SBSR and the SDR Rules are referred to collectively as the ''SBS Reporting Rules.''

[9] *See* 17 CFR 242.909.

[10] *See* Form SDR, Instruction 2.

[11] Release No. 34–87780 (Dec. 18, 2019), 85 FR 6270, 6347 (Feb. 4, 2020) (''ANE Adopting Release'').

[12] *See id.* Under Regulation SBSR, the first compliance date (''Compliance Date 1'') for affected persons with respect to an SBS asset class is the first Monday that is the later of: (i) six months after the date on which the first SDR that can accept transaction reports in that asset class registers with the Commission; or (ii) one month after the compliance date for registration of SBS dealers and major SBS participants (''SBS entities''). *Id.* at 6346. The compliance date for registration of SBS entities is October 6, 2021. *See id.* at 6270, 6345.

[13] *See id.* The specific rule provisions of the SBS Reporting Rules affected by the no-action statement are discussed in Part II.B.

[14] *See* 15 U.S.C. 78m(n)(3).

[15] 17 CFR 240.13n–1(c)(3).

[16] *Id.*

comply with the provisions of the Exchange Act and the rules and regulations thereunder, carry out its functions in a manner consistent with the purposes of the Exchange Act, and, insofar as it is acting as an exclusive processor, operate fairly and efficiently.[17]

In determining whether an applicant meets the criteria set forth in Rule 13n–1(c), the Commission will consider the information reflected by the applicant on its Form SDR, as well as any additional information obtained from the applicant. For example, Form SDR requires an applicant to provide a list of the asset classes for which the applicant is collecting and maintaining data or for which it proposes to collect and maintain data, a description of the functions that it performs or proposes to perform, general information regarding its business organization, and contact information.[18] Obtaining this information and other information reflected on Form SDR and the exhibits thereto—including the applicant's overall business structure, financial condition, track record in providing access to its services and data, technological reliability, and policies and procedures to comply with its statutory and regulatory obligations—will enable the Commission to determine whether to grant or deny an application for registration.[19] Furthermore, the information requested in Form SDR will enable the Commission to assess whether the applicant is so organized and has the capacity to comply and carry out its functions in a manner consistent with the federal securities laws and the rules and regulations thereunder, including the SBS Reporting Rules.[20]

Consistent with the Commission's no-action statement in the ANE Adopting Release,[21] an entity wishing to register with the Commission as an SDR must still submit an application on Form SDR but can address the rule provisions included in the no-action statement by discussing how the SDR complies with comparable Commodity Futures Trading Commission (''CFTC'') requirements.[22] Accordingly, in such instances the Commission will not assess an SDR application for consistency or compliance with the rule provisions included in the Commission's no-action statement. Specifically, the Commission identified the following provisions as not providing a basis for an enforcement action against a registered SDR for the duration of the relief provided in the Commission statement: Under Regulation SBSR, aspects of 17 CFR 242.901(a), 901(c)(2) through (7), 901(d), 901(e), 902, 903(b), 906(a) and (b), and 907(a)(1), (a)(3), and (a)(4) through (6); under the SDR Rules, aspects of Section 13(n)(5)(B) of the Exchange Act and 17 CFR 240.13n–4(b)(3) thereunder, and aspects of 17 CFR 240.13n–5(b)(1)(iii); and under Section 11A(b) of the Exchange Act, any provision pertaining to SIPs.[23] Thus, an SDR applicant will not need to include materials in its application explaining how it would comply with the provisions noted above, and could instead rely on its discussion about how it complies with comparable CFTC requirements.[24] The applicant may instead represent in its application that it: (i) Is registered with the CFTC as a swap data repository; (ii) is in compliance with applicable requirements under the swap reporting rules; (iii) satisfies the standard for Commission registration of an SDR under Rule 13n–1(c); and (iv) intends to rely on the no-action statement included in the ANE Adopting Release for the period set forth in the ANE Adopting Release with respect to any SBS asset class or classes for which it intends to accept transaction reports.[25]

## III. Summary of ICE Trade Vault's Application on Form SDR

As noted above, ICE Trade Vault intends to operate as a registered SDR for the credit derivatives asset class.[26] ICE Trade Vault states that its core duties are: (i) Acceptance and confirmation of data; (ii) recordkeeping; (iii) public reporting; (iv) maintaining data privacy and integrity; and (v) permitting access to regulators.[27] It notes that its fundamental purpose is to provide transparency to the SBS market and publicly disseminate trade information.[28] In its application, ICE Trade Vault represents that it is provisionally registered with the CFTC as a swap data repository, is in compliance with applicable requirements under the CFTC reporting rules applicable to a registered swap data repository, and intends to rely on the Commission's position outlined in the ANE Adopting Release for applicable reporting rules and SBSDR duties for the period set forth therein.[29] Below is an overview of the representations made in the application materials.

### *A. Organization and Governance*

ICE Trade Vault is a Delaware limited liability company, and is a wholly owned subsidiary of Intercontinental Exchange Holdings, Inc., which, in turn, is a wholly owned subsidiary of Intercontinental Exchange, Inc. (''ICE''), a publicly traded company.[30] As a general matter, the number of directors and composition of the Board of Directors (''ITV Board'') shall be determined by ICE, as the sole member of ICE Trade Vault.[31] Currently, the ITV Board consists of at least three directors, all of whom are appointed by ICE.[32] The ITV Board is composed of individuals selected from the following groups: members of senior management or the Board of Directors of ICE, independents and employees of ICE Trade Vault's users with derivatives industry experience.[33] ICE considers several factors in determining the composition of the ITV Board, including whether directors, both individually and collectively, possess the required integrity, experience, judgment, commitment, skills and expertise to exercise their obligations of oversight and guidance over an SDR and a swap data repository regulated by the CFTC.[34] Additionally, in accordance with Exchange Act Rule 13n-4(c)(2), ICE Trade Vault provides users with the

[17] *See* 15 U.S.C. 78k-1(b)(3).

[18] *See* SDR Adopting Release, *supra* note 6, at 14459.

[19] *See id.* at 14458.

[20] *See id.* at 14458–59.

[21] *See supra* notes 11–13 and accompanying text.

[22] *See supra* note 13.

[23] The ANE Adopting Release provides additional discussion of the particular aspects of the affected rules that would not provide a basis for an enforcement action. *See* ANE Adopting Release, *supra* note 11, at 6347–48.

[24] *Id.* at 6348.

[25] *Id.* For example, an applicant need not describe in Exhibit S its functions as a SIP.

[26] *See* Security-Based SDR Service Disclosure Document, Ex. V.2; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.1.

[27] *See id.*

[28] *See id.*

[29] *See* Form SDR, Application Letter from Trabue Bland, President, ICE Trade Vault, dated Mar. 10, 2021, at 1, 2.

[30] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9. ICE is a holding company whose subsidiaries operate exchanges, clearing houses, and data services for financial and commodity markets. ICE operates global marketplaces for trading and clearing a broad array of securities and derivatives contracts across major asset classes, including energy and agricultural commodities, interest rates, equities, equity derivatives, credit derivatives, bonds, and currencies.

[31] *See* Board of Directors Governance Principles, Ex. D.3.

[32] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.1; Board of Directors Governance Principles, Ex. D.3.

[33] *See* Board of Directors Governance Principles, Ex. D.3.

[34] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.1; Board of Directors Governance Principles, Ex. D.3.

opportunity to participate in the process for nominating the ICE Trade Vault independent director and with the right to petition for alternative candidates.[35] At least one director will at all times be ''independent'' in accordance with applicable provisions of the New York Stock Exchange Listed Company Manual.[36] Two officers of ICE Trade Vault's parent, ICE, currently serve as the non-independent directors.[37] ICE shall periodically review the composition of the ITV Board to assure that the level of representation of directors is appropriate for the interests of these constituencies in ICE Trade Vault.[38]

The ITV Board oversees all risks relating to ICE Trade Vault.[39] The powers and authority of the ITV Board include the ability to: (i) Designate and authorize specific appointed officers to act on behalf of the ITV Board; (ii) fix, determine and levy all fees, when necessary; (iii) prepare and amend the Rulebook; (iv) act in emergencies; and (v) delegate any such power to the appropriate party.[40] The ITV Board oversees ICE Trade Vault's SDR functions as well as other regulated services that ICE Trade Vault provides, such as the swap data repository registered with the CFTC.[41]

ICE Trade Vault's Chief Compliance Officer (''CCO'') is appointed by the ITV Board and reports directly to the President of ICE Trade Vault.[42] The ITV Board approves the compensation of the CCO and meets with the CCO at least annually.[43] The CCO also works directly with the ITV Board in certain instances, for example, when resolving conflicts of interest.[44] The CCO has supervisory authority over all staff acting at the direction of the CCO and his or her responsibilities include, but are not limited to: (i) preparing and signing a compliance report with a financial report that conforms to the requirements of Exchange Act Rule 13n–11(f), which shall be provided to the SEC annually in accordance with Exchange Act Rule 13n–11(d); (ii) reviewing the compliance of ICE Trace Vault with respect to the requirements and core principles described in Section 13(n) of the Exchange Act and the applicable SEC regulations; and (iii) establishing and administering written policies and procedures reasonably designed to prevent violations of the Exchange Act, the core principles applicable to SDRs and applicable law.[45]

ICE Trade Vault directors, officers and employees must comply with the ICE Global Code of Business Conduct, which describes policies for, among other things, handling conflicts of interest, prohibiting insider trading, complying with the law and document management and retention requirements.[46] In addition, ICE Trade Vault prohibits any member of the ITV Board or of any board committee which has authority to take action for and in the name of ICE Trade Vault from knowingly participating in such body's deliberations or voting in any matter involving a named party in interest (a person or entity that is identified by name as a subject of any matter being considered by the ITV Board or a board committee) where such member (i) is a named party in interest, (ii) is an employer, employee, or guarantor of a named party in interest or an affiliate thereof, (iii) has a family relationship (the person's spouse, former spouse, parent, stepparent, child, stepchild, sibling, stepbrother, stepsister, grandparent, grandchild, uncle, aunt, nephew, niece or in-law) with a named party in interest or (iv) has any other significant, ongoing business relationship with a named party in interest or an affiliate thereof.[47] The CCO shall determine whether any member of the deliberating body is subject to a prohibition under its conflicts of interest policies.[48]

*B. Access and Information Security*

ICE Trade Vault represents that it provides access to its SDR service on a fair, open and not unreasonably discriminatory basis.[49] According to ICE Trade Vault, access to and usage of its service is available to all market participants that validly engage in SBS transactions and to all market venues from which data can be submitted to ICE Trade Vault, and do not require the use of any other ancillary service offered by ICE Trade Vault.[50] ICE Trade Vault represents that for security reasons, access to the ICE Trade Vault system is strictly limited to users (entities with valid permissions and security access).[51] Users will only have access to (i) data they reported, (ii) data that pertains to a SBS to which they are a counterparty; (iii) data that pertains to a SBS for which the user is an execution agent, platform, registered broker-dealer or a third-party reporter; and (iv) data that ICE Trade Vault is required to make publicly available.[52]

According to ICE Trade Vault, access to its system is provided to parties that have a duly executed User Agreement in effect with ICE Trade Vault.[53] When enrolling with ICE Trade Vault, users must designate an administrator with respect to the user's use of ICE Trade Vault to ensure ICE Trade Vault access is granted by a trusted individual at the user's firm who is closest to and has the most knowledge of those in the firm who require access; the administrator will create, permission and maintain all user names and passwords for the user.[54] According to ICE Trade Vault, passwords must meet technical and procedural processes for information security and must include at least three of the following elements: uppercase letters, lowercase letters, numbers, and special characters.[55]

ICE Trade Vault may decline the request of an applicant to become a user

[35] *See id.*

[36] *See id.*

[37] *See id.*

[38] *See* Board of Directors Governance Principles, Ex. D.3.

[39] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.1; Board of Directors Governance Principles, Ex. D.3.

[40] *See id.*

[41] *See id.*

[42] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 9; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.1.1.

[43] *See id.*

[44] *See id.*

[45] *See id.*

[46] *See* ICE Global Code of Business Conduct, Ex. D.4.

[47] *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.1, sec. 2.10.2.

[48] *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.10.4.

[49] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.1.

[50] *See id.; see also* SDR Adopting Release, 80 FR at 14451–52 (Commission noting that confirmation and dispute resolution services or functions ''are ancillary. . . . [and are] not 'core' SDR services, which would cause a person providing such core services to meet the definition of an SDR, and thus, require the person to register with the Commission as an SDR. However, SDRs are required to perform these two services or functions, and thus, they are required ancillary services[.] . . . An SDR may delegate some of these required ancillary services to third party service providers, who do not need to register as SDRs to provide such services. The SDR will remain legally responsible for the third party service providers' activities relating to the required ancillary services and their compliance with applicable rules under the Exchange Act.'').

[51] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; *see also* ICE Trade Vault User Agreement, Ex. U.2.

[52] *See id.; see also* Security-Based Swap Data Repository User Onboarding Process Guide, Ex. N.6.

[53] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.1.1; *see also* ICE Trade Vault User Agreement, Ex. U.2.

[54] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.1.1.

[55] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1.

of its system if such denial is required in order to comply with applicable law (*e.g.,* to comply with sanctions administered and enforced by the Office of Foreign Assets Control of the U.S. Department of the Treasury).[56] If an applicant is denied by ICE Trade Vault for any other reason, the applicant will be entitled to notice and an opportunity to contest such determination in accordance with the Rulebook.[57] If the denial of an application is reversed, the applicant will be granted access to ICE Trade Vault promptly following completion of onboarding requirements.[58] In addition, ICE Trade Vault may revoke a user's access to ICE Trade Vault following a determination that (i) the user has violated any provision of the User Agreement (including by failing to pay any fees when due), the Rulebook, applicable law or any ICE Trade Vault policies and procedures related to its SDR service or (ii) such action is necessary or appropriate in light of ICE Trade Vault's regulatory responsibilities or for the protection of the integrity of its system (each, an ''Access Determination'').[59] Access Determinations shall be made by the CCO based on the information gathered during the inquiry, if any, and reviewed by the President and General Counsel of ICE Trade Vault within 5 business days of such determination prior to implementing any revocation of access.[60] Notwithstanding the foregoing, the CCO's Access Determination may be implemented immediately without prior review by the President or General Counsel (''Immediate Revocation'') where the CCO determines such revocation is necessary for the protection of the integrity of the ICE Trade Vault system or to fulfill ICE Trade Vault's regulatory responsibilities.[61] If (i) an Immediate Revocation occurs or (ii) the President and General Counsel conclude that an Access Determination is appropriate and in compliance with applicable law, the CCO shall, within 1 business day, provide notice by email to the user to which the Access Determination applies, including in such notice the specific reasons for the determination.[62] If the President and General Counsel conclude that limitation or revocation of access pursuant to an Access Determination made by the CCO would constitute unreasonable discrimination, the President and General Counsel shall take such actions as are necessary to maintain or restore access to ICE Trade Vault, its services or SDR information, as applicable.[63]

ICE Trade Vault states that it recognizes its responsibility to ensure data confidentiality and dedicates significant resources to information security to prevent the misappropriation or misuse of confidential information and any other SDR information not subject to public dissemination (*i.e.,* the information identified in Exchange Act Rule 902(c)) and that it does not, as a condition of accepting SBS data from users, require the waiver of any privacy rights by such users.[64] ICE Trade Vault states that it maintains a security policy that sets forth technical and procedural processes for information security and contains an extensive list of policies and means of implementation and that it uses a multi-tiered firewall deployment to provide network segmentation and access control to its services.[65] ICE Trade Vault states that its application servers are housed in a demilitarized network zone behind external firewalls and that a second set of internal firewalls further isolate ICE Trade Vault database systems, while an intrusion system provides added security to detect any threats and network sensors analyze all internet and private line traffic for malicious patterns.[66]

ICE Trade Vault states that tactical controls are regularly examined and tested by multiple tiers of internal and external test groups, auditors and independently contracted third-party security testing firms.[67] According to ICE Trade Vault, in addition, the security policy imposes an accountable and standard set of best practices to protect the confidentiality of users' SDR information, including confidential information and other SDR information not subject to public dissemination.[68] ICE Trade Vault states that it completes an audit for adherence to the data security policies on at least an annual basis; the audit tests the following applicable controls, among others, to ICE Trade Vault systems: (i) Logical access controls; (ii) logical access to databases; (iii) physical and environmental controls; (iv) backup procedures; and (v) change management.[69] ICE Trade Vault states that it has a robust information security program and maintains effective and current policies and procedures to ensure employee compliance; ICE Trade Vault's information security program includes: asset management; physical and environmental security; authorization, authentication and access control management; internet, email and data policy management, record retention management; and accountability, compliance and auditability.[70] ICE Trade Vault states that it performs network scans and penetration tests regularly to ensure the information security systems are performing as designed.[71]

ICE Trade Vault maintains and will continue to maintain a robust emergency and business-continuity and disaster recovery plan (''Business Continuity Plan'') that allows for timely resumption of key business processes and operations following unplanned interruptions, unavailability of staff, inaccessibility of facilities, and disruption or disastrous loss to one or more of ICE Trade Vault's facilities or services.[72] In accordance with the Business Continuity Plan, all production system hardware and software is replicated in near real-time at a geographical- and vendor-diverse disaster recovery site to avoid any loss of data.[73] ICE Trade Vault shall notify the SEC as soon as it is reasonably practicable of ICE Trade Vault's invocation of its emergency authority, any material business disruption, or any threat that actually or potentially jeopardizes automated system capacity, integrity, resiliency, availability or security.[74]

### *C. Acceptance and Use of SBS Data*

ICE Trade Vault states that it will accept data in respect of all SBS trades

[56] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 1; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.1.2.

[57] *See id.*

[58] *See id.*

[59] *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.3.

[60] *See id.*

[61] *See id.*

[62] *See id.*

[63] *See id.; see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.4 (review and dispute of revocation of access), 3.5 (final access determinations), 3.6 (implementation of a revocation of access).

[64] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec.4.

[65] *See id.*

[66] *See id.*

[67] *See id.*

[68] *See id.*

[69] *See id.*

[70] *See id.*

[71] *See id.*

[72] *See id.*

[73] *See id.*

[74] *See id.; see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.8.3 (''ICE Trade Vault will notify the SEC as soon as practicable of any action taken, or proposed to be taken (time permitting), pursuant to this Rule 2.8.3. The decision-making process with respect to, and the reasons for, any such action will be recorded in writing. ICE Trade Vault will also notify Users via email as soon as practicable of any action taken (time permitting), or proposed to be taken, pursuant to this Rule 2.8.3.'').

in the credit derivatives asset class and promptly records such data upon receipt.[75] ICE Trade Vault requires all users to report complete and accurate trade information and to review and resolve all error messages generated by the ICE Trade Vault system with respect to the data they have submitted.[76] According to ICE Trade Vault, access to SDR information by ICE Trade Vault employees and others performing functions on behalf of ICE Trade Vault is strictly limited to those with the direct responsibility for supporting the ICE Trade Vault system, users and regulators.[77] ICE Trade Vault employees and others performing functions on behalf of ICE Trade Vault are prohibited from using SDR information other than in the performance of their job responsibilities.[78] In accordance with applicable SEC regulations, ICE Trade Vault may disclose, for commercial purposes, certain SDR information; any such disclosures shall be made solely on an aggregated basis in a manner that ensures that the disclosed SDR information cannot reasonably be attributed to individual transactions or users.[79]

ICE Trade Vault states that, in accordance with Exchange Act Rule 13n-5(b)(5), it maintains internal policies and procedures in place to ensure its recording process and operation does not invalidate or modify the terms of trade information, and that it regularly audits these controls to ensure the prevention of unauthorized and unsolicited changes to SDR information maintained in the ICE Trade Vault system through protections related to the processing of SBS.[80]

Additionally, ICE Trade Vault states that it reasonably relies on the accuracy of trade data submitted by users and that all users must complete a conformance test to validate data submission integrity prior to ICE Trade Vault's acceptance of actual SBS data and must immediately inform ICE Trade Vault of any system or technical issues that may affect the accuracy of SBS data transmissions.[81] ICE Trade Vault states that users are responsible for the timely resolution of trade record errors and disputes.[82] ICE Trade Vault provides users electronic methods to extract SDR information for trade data reconciliation.[83] Disputes involving clearing transactions shall be resolved in accordance with the clearing agency's rules and applicable law.[84] For an alpha SBS executed on a platform and reported by a platform user, disputes must be resolved in accordance with the platform's rules and applicable law.[85] For SBS that are reported by a user that is neither a platform nor a clearing agency, counterparties shall resolve disputes with respect to SDR information in accordance with the counterparties' master trading agreement and applicable law.[86] Users that are non-reporting sides may verify or dispute the accuracy of trade information that has been submitted by a reporting side to ICE Trade Vault, where the non-reporting side is identified as the counterparty, by sending a verification message indicating that it verifies or disputes such trade information.[87] If the reporting side for a SBS transaction discovers an error in the information reported with respect to a SBS, or receives notification from a counterparty of an error, the reporting side shall promptly submit to ICE Trade Vault an amended report that corrects such error.[88] ICE Trade Vault will disseminate a corrected transaction report in instances where the initial report included erroneous primary trade information.[89] Users are required to notify ICE Trade Vault promptly of disputed trade data by utilizing the ''Dispute'' functionality; when a User ''disputes'' a trade, the status of the trade will be recorded as ''Disputed,'' and notice of the dispute will be sent promptly to the other party to the trade; the trade record may then be amended or canceled upon mutual agreement of the parties; the status of the trade will remain ''Disputed'' until either party to the trade provides evidence satisfactory to ICE Trade Vault that the dispute has been resolved.[90] ICE Trade Vault will provide regulators with reports identifying the SDR information that is deemed disputed.[91]

*D. Fees*

According to ICE Trade Vault, all fees imposed by ICE Trade Vault in connection with the reporting of swap data shall be equitable and established in a uniform and non-discriminatory manner as determined from time-to-time by ICE Trade Vault.[92] In addition, ICE Trade Vault represents that all fees will be commensurate to ICE Trade Vault's costs for providing its SDR service. ICE Trade Vault states it will only assess fees as noted in its fee schedule, and there will be no ''hidden fees'' associated with ICE Trade Vault Service.[93]

The most current pricing schedule is made available via the ICE Trade Vault website. ICE Trade Vault applies fees according to the type of SDR user accessing ICE Trade Vault: counterparty, clearing agency, execution agent and third party reporter.[94] According to ICE Trade Vault, in the case of the execution agent versus the third party reporter, the application of fees is differentiated based upon the type of service provided in each case.[95] According to ICE Trade Vault, an execution agent is directly involved with trade execution; as such, it is charged directly for the fees associated with the SDR just as a counterparty, whereas the underlying

[75] *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.1.

[76] *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.2.1.

[77] *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.8; Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 5.

[78] *See id.*

[79] *See id.*

[80] *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.5.

[81] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6.

[82] *See id.; see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.6 and 4.7.

[83] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.6.

[84] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.2.4 and 4.7.

[85] *See id.*

[86] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.7.

[87] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.2.3.

[88] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.2.2.

[89] *See id.*

[90] *See id.; see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.7.

[91] *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 4.7; *see also* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 6.

[92] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec.8; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 2.7 (''In accordance with Exchange Act Rule 13n-4(c), any dues, fees or other charges imposed by, and any discounts or rebates offered by, ICE Trade Vault in connection with the ICE SBSDR Service shall be fair and reasonable and not unreasonably discriminatory. ICE Trade Vault dues, fees, other charges, discounts, or rebates shall be applied consistently across all similarly situated Users.'')

[93] *See* ICE Trade Vault Security-Based Swap Data Repository Service and Pricing Schedule, Ex. M.2.

[94] *See* Dues, Fees and Charges, Ex. M.1.

[95] *See id.*

funds are not charged a fee.[96] However, the third party reporter is not involved with the trade execution and simply provides a service to counterparties who have an obligation to report; therefore, according to ICE Trade Vault, they are assessed a fee for each of those reporting parties on behalf of whom they are reporting the trades.[97] According to ICE Trade Vault, as a result, the third party reporter is able to pass the cost of its service to each of its counterparties utilizing third party reporting; this allows for the cost of ICE Trade Vault to be fair and equal for reporting parties whether they choose to report directly to ICE Trade Vault or via a third party reporter.[98] Additionally, according to ICE Trade Vault, clearing agency fees vary from other users due to the unique requirements necessary to support this type of customer; ICE Trade Vault must build out a separate custom interface(s) and purchase and maintain additional hardware necessary to support the high volume of trades submitted to the SDR by the clearing agency; as a result, the minimum fee outlined in the ICE Trade Vault pricing schedule reflects the costs incurred by ICE Trade Vault to purchase the necessary hardware and software and the cost to build out the SDR system; in addition, the clearing agency fees also reflect the additional ongoing support and maintenance costs for this type of high volume user.[99] According to ICE Trade Vault, all fees within the schedule, including the monthly per $1MM notional, are cost based to ensure ICE Trade Vault may operate with a minimum margin while allowing for a reasonable cost to its customers, given the expected volume of trades it expects to receive as an SDR.[100]

ICE Trade Vault will assess a Repository Fee upon its acceptance of any trade message for an SBS transaction.[101] For both cleared and uncleared/bilateral transactions, the Repository Fee rates will be $1.35 per $1/MM Notional. For cleared SBS, the Repository Fee will be charged to the clearing agency that cleared the SBS and, for uncleared or bilateral SBS transactions, the fee will be charged to the user which submitted the record as a counterparty or execution agent.

For transactions submitted directly by a clearing agency user, clearing agency users will have a minimum monthly invoice per user of $10,000, and the invoice will be the greater of (i) the total of all Repository Fees incurred by user or (ii) $10,000.[102] If a clearing agency user does not have any submittals in a given month but does have open positions, the $10,000 will be charged as a minimum maintenance fee in the place of any Repository Fees. If a clearing agency user does not have any submittals in a given month and does not have any open positions then no fees will be charged.

For transactions submitted directly by a counterparty user, the minimum monthly invoice per user will be $375.[103] In a given month, each user represented as a counterparty shall be invoiced the greater of (i) the total of all Repository Fees incurred by user or (ii) $375. If the user does not have any submittals in a given month but does have open positions on SBS in the ICE Trade Vault Service, the $375 will be charged as a minimum maintenance fee in the place of any Repository Fees. If the user does not have any submittals in a given month and does not have any open positions then no fees will be charged.

When an execution agent submits an SBS transaction on behalf of the counterparty and is listed as the execution agent, the execution agent will be charged the Repository Fee (not the underlying funds, accounts or other principals).[104] When an execution agent submits an SBS transaction where the execution agent is acting as the counterparty, it will be charged the Repository Fee. The minimum monthly invoice for an execution agent will be a total of $375, including all transactions in which the executing agent is acting on behalf of a counterparty or acting as its own counterparty.

For transactions submitted by third party reporters, third party reporters will only be charged a Repository Fee for those transactions they report on behalf of non-users of ICE Trade Vault.[105] Each non-user on whose behalf the third party reporter submits the transaction will have an invoice created as if it were a user, and will be invoiced the greater of (i) the total of all Repository Fees incurred by non-user or (ii) $200. If the non-user does not have any submittals by the third party reporter in a given month but does have open positions, $200 will be charged as a minimum maintenance fee in the place of any Repository Fees. If the non-user does not have any submittals by the third party reporter in a given month and does not have any open positions then no fees will be charged. The details regarding the Repository Fees incurred or the minimum monthly amount for each non-user will be detailed on the third-party reporter's invoice and summed across all non-users to determine the total amount charged to any one third party reporter. ICE Trade Vault will solely provide invoices to the third party reporter for trades reported on behalf of the non-user and will not issue an invoice directly to any non-users.

*E. Recordkeeping*

According to ICE Trade Vault, users access ICE Trade Vault through a web-based front-end that requires user systems to (a) satisfy the minimum computing system and web browser requirements specified in the ICE Trade Vault Technical Guides; (b) support HTTP 1.1 and 128-bit or stronger SSL data encryption; and (c) the most recent version of Chrome.[106] Trade information submitted to ICE Trade Vault is saved in a non-rewriteable, non-erasable format, to a redundant, local database and a remote disaster recovery database in near real-time; the database of trade information submitted to ICE Trade Vault is backed-up to tape daily with tapes moved offsite weekly.[107] Counterparties' individual trade data records remain available to users at no charge for online access through ICE Trade Vault from the date of submission until five years after expiration of the trade (last day of delivery or settlement as defined for each product).[108] After the initial five-year period, counterparties' trade data will be stored off-line and remain available upon a three-day advance request to ICE Trade Vault, until ten years from the termination date.[109] According to ICE Trade Vault, users will retain unimpaired access to their online and archived trade data.[110] However, if a user or its regulator requests or requires archived trade information from ICE Trade Vault to be delivered other than via the web-based front-end or the application programming interface (''API'') or in a non-standard format, such user may be required, in

[96] *See id.*

[97] *See id.*

[98] *See id.*

[99] *See id.*

[100] *See id.*

[101] *See* ICE Trade Vault Security-Based Swap Data Repository Service and Pricing Schedule, Ex. M.2.

[102] *See id.*

[103] *See id.*

[104] *See id.*

[105] *See id.*

[106] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 2; *see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 3.7.

[107] *See* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 7.1; *see also* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 3.

[108] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 3.

[109] *See* Security-Based SDR Service Disclosure Document, Ex. V.2, sec. 3.

[110] *See id.*

accordance with the ICE Trade Vault schedule of fees and charges, to reimburse ICE Trade Vault for its reasonable expenses in producing data in response to such request or requirement as such expenses are incurred.[111] Similarly, ICE Trade Vault may require a user to pay all reasonable expenses associated with producing records relating to its transactions pursuant to a court order or other legal process, as those expenses are incurred by ICE Trade Vault, whether such production is required at the instance of such user or at the instance of another party with authority to compel ICE Trade Vault to produce such records.[112]

*F. Disclosure*

ICE Trade Vault publishes a disclosure document to provide a summary of information regarding its service offerings and the SBS data it maintains.[113] Specifically, the disclosure document sets forth a description of the following: (i) criteria for access to the ICE Trade Vault service and SBS data; (ii) criteria for connection and linking to ICE Trade Vault; (iii) policies and procedures to safeguard SBS data and operational reliability; (iv) policies and procedures to protect the privacy of SBS data; (v) policies and procedures on ICE Trade Vault commercial and non-commercial use of SBS data; (vi) ICE Trade Vault data accuracy and dispute resolution procedures; (vii) ICE Trade Vault services; (viii) ICE Trade Vault pricing; and (ix) ICE Trade Vault governance arrangements.[114]

*G. Regulatory Reporting and Public Dissemination*

As a registered SDR, ICE Trade Vault would carry out an important role in the regulatory reporting and public dissemination of SBS transactions. As noted above, ICE Trade Vault has stated that it intends to rely on the no-action statement included in the ANE Adopting Release for the period set forth in the ANE Adopting Release with respect to the credit derivatives asset class.[115] Therefore, ICE Trade Vault does not need to include materials in its application explaining how it would comply with the provisions of the SBS Reporting Rules noted in the no-action statement.[116] Instead, ICE Trade Vault may rely on its discussion about how it complies with comparable CFTC requirements pertaining to regulatory reporting and public dissemination of swap transactions.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning ICE Trade Vault's Form SDR, including whether ICE Trade Vault has satisfied the requirements for registration as an SDR and as a SIP. Commenters are requested, to the extent possible, to provide empirical data and other factual support for their views. Comments may be submitted by any of the following methods:

*Electronic comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SBSDR–2021–01 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 SBSDR–2021–01.

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 internet website (*http://www.sec.gov/rules/other.shtml*).

Copies of the Form SDR, all subsequent amendments, all written statements with respect to the Form SDR that are filed with the Commission, and all written communications relating to the Form SDR between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m.

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 SBSDR–2021–01 and should be submitted on or before April 9, 2021.

By the Commission.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–05744 Filed 3–18–21; 8:45 am]

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[111] *See id.; see also* Swap Data Repository Rulebook, Security-Based Swap Data Reporting Annex, Ex. HH.2, sec. 7.1.

[112] *See id.*

[113] *See* Security-Based SDR Service Disclosure Document, Ex. V.2.

[114] *See id.*

[115] *See supra* note 29 and accompanying text.

[116] However, the ICE Trade Vault application includes provisions explaining how it would require users to identify SBS, as required by Rule 901(c)(1) of Regulation SBSR. *See* Security-Based SDR Service Disclosure Document, Ex. N.5 (fields 146–148). The ICE Trade Vault application also includes a provision explaining how it would comply with a condition to the no-action statement included in the ANE Adopting Release. *See* Security-Based SDR Service Disclosure Document, Ex. N.4, sec. 3.5 (providing, in the case of a credit security-based swap, for dissemination of a capped notional size of $5 million if the true notional size of the transaction is $5 million or greater).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–91323; File No. SR–PEARL–2021–07]**

## Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt a Minimum Execution Quantity Instruction for Orders

March 15, 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 March 1, 2021, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange is filing a proposed rule change to amend Exchange Rule 2614, Orders and Order Instructions, to adopt the Minimum Execution Quantity instruction.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend Exchange Rule 2614, Orders and Order Instructions, to adopt the Minimum Execution Quantity (''MEQ'') instruction that would be available to orders in equity securities traded on the Exchange's equity trading platform (referred to herein as ''MIAX PEARL Equities''). An MEQ instruction would enable a User [3] to specify a minimum share amount at which the order will execute. An order to buy (sell) with an MEQ instruction would not execute unless the volume of orders to sell (buy) meets or exceeds the order to buy (sell)'s designated minimum quantity condition. The proposed MEQ instruction is based on similar functionality offered at other exchanges.[4]

The Exchange understands that some market participants avoid sending large orders to MIAX PEARL Equities out of concern that such orders may interact with small orders entered by professional traders, possibly adversely impacting the execution of their larger order. Institutional orders are often much larger in size than the average order in the marketplace. To facilitate the liquidation or acquisition of a large position, market participants tend to submit multiple orders into the market that may only represent a fraction of the overall institutional position to be executed. Various strategies used by institutional market participants to execute large orders are intended to limit price movement of the security at issue. Executing in small sizes may impact the market for that security such that the additional orders the market participant has yet to enter into the market may be more costly to execute. If an institution is able to execute in larger sizes, the contra-party to the execution is less likely to be a participant that reacts to short term changes in the stock price, and as such, the price impact to the stock may be less acute when larger individual executions are obtained.[5] As a result, these orders are often executed away from the Exchange in dark pools or other exchanges that offer the same functionality as proposed herein,[6] or via broker-dealer internalization.

To attract larger orders, the Exchange proposes to add new optional functionality in the form of the MEQ instruction. The proposed MEQ instruction would be described under new paragraph (c)(7) of Exchange Rule 2614 and described as an instruction a User may attach to a non-displayed order requiring the System to execute the order only to the extent that a minimum quantity can be satisfied. Accordingly, the Exchange also proposes to amend Exchange Rule 2614(a) to specify that the MEQ instruction may be attached to a non-displayed Limit Order,[7] a Market Order, and a Midpoint Peg Order.

Operation Upon Entry

The proposed MEQ instruction would operate differently upon entry than when resting on the MIAX PEARL Equities Book.[8] Proposed Exchange Rule 2614(c)(7)(A) would describe the operation of the MEQ instruction upon entry and provide that an order with an MEQ will execute upon entry against individual orders resting on the MIAX PEARL Equities Book that each satisfy the order's minimum quantity condition. Subparagraph (c)(7)(A)(i) to Exchange Rule 2614 would provide that a User may alternatively specify that the incoming order's minimum quantity condition need not be satisfied by each individual resting order and that the order's minimum quantity condition be satisfied by one or multiple orders resting on the MIAX PEARL Equities Book that in the aggregate satisfy the order's minimum quantity condition.[9]

Subparagraph (c)(7)(A) to Exchange Rule 2614 would also provide that if there are orders that satisfy the minimum quantity condition, but there are also orders that do not satisfy the minimum quantity condition, the order with the MEQ instruction will execute against orders resting on the MIAX PEARL Equities Book in accordance with Rule 2616, Priority of Orders, until it reaches an order that does not satisfy the minimum quantity condition, and then the remainder of the order with an MEQ instruction will be posted to the MIAX PEARL Equities Book or cancelled in accordance with the terms of the order.[10]

The following example illustrates when a User elects for an order with an MEQ instruction to execute upon entry against any number of smaller contra-side orders that, in aggregate, meet the order's minimum quantity condition. Assume there are two orders to sell at $10.00 resting on the MIAX PEARL Equities Book—the first for 300 shares and a second for 400 shares, with the 300 share order having time priority ahead of the 400 share order. If a User entered an order with an MEQ instruction to buy 700 shares at $10.00 with a minimum quantity of 500 shares,

[3] Exchange Rule 1901 defines the term ''User'' as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Exchange Rule 2602.''

[4] *See, e.g.,* Cboe BYX Exchange, Inc. (''BYX'') and Cboe BZX Exchange, Inc. Rules 11.9(c)(5), Cboe EDGA Exchange, Inc. (''EDGA'') and Cboe EDGX Exchange, Inc. (''EDGX'', collectively with BYX, BZX, and EDGA, the ''Cboe Equity Exchanges'') Rules 11.6(h), New York Stock Exchange LLC (''NYSE'') Rule 7.31(i)(3), NYSE Arca, Inc. (''NYSE Arca'') Rule 7.31–E(i)(3), NYSE American LLC (''NYSE American'', collectively with NYSE and NYSE Arca, the ''NYSE Exchanges'') Rule 7.31E(i)(3), Investors Exchange, Inc. (''IEX'') Rule 11.190(h)(11), The NASDAQ Stock Market LLC (''NASDAQ'') Rule 4703(e), and MEMX LLC (''MEMX'') Rule 11.6(f).

[5] The Commission has long recognized this concern: ''[a]nother type of implicit transaction cost reflected in the price of a security is short-term price volatility caused by temporary imbalances in trading interest. For example, a significant implicit cost for large investors (who often represent the consolidated investments of many individuals) is the price impact that their large trades can have on the market. Indeed, disclosure of these large orders can reduce the likelihood of their being filled.'' *See* Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577, 10581 (February 28, 2000) (SR–NYSE–99–48).

[6] *See supra* note 4.

[7] Unlike the Cboe Equity Exchanges and MEMX, the Exchange will not permit displayed Limit Orders with a time-in-force of Immediate-or-Cancel (''IOC'') to include a minimum quantity condition. *See, e.g.,* EDGX Rule 11.8(b)(3). *See also* MEMX Rule 11.8(b)(2).

[8] Exchange Rule 1901 defines the term ''MIAX PEARL Equities Book'' as ''the electronic book of orders in equity securities maintained by the System.''

[9] The Exchange notes that this functionality is similar to that of the Cboe Equity Exchanges with the exception of the proposed default behavior. The CBOE Equity Exchanges default orders with a minimum execution quantity to execute against multiple aggregated contra-side orders upon entry. *See, e.g.,* EDGX Rule 11.6(h). The NYSE Exchanges and NASDAQ provide both alternatives but do not provide a default. *See, e.g.,* NYSE Rule 7.31(i)(3) *and* NASDAQ Rule 4703(e). The Exchange also notes that MEMX only allows orders with a minimum execution quantity to execute against a single order that satisfies the orders minimum quantity condition upon entry and does not provide for multiple contra-side orders to be aggregated to meet the order's minimum quantity condition. *See* MEMX Rule 11.6(f).

[10] This behavior is identical to that of the Cboe Equity Exchanges and MEMX. *See, e.g.,* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

and the order was marketable against the two resting sell orders for 300 and 400 shares, the System would aggregate both sell orders for purposes of meeting the minimum quantity, thus resulting in executions of 300 shares and then 400 shares respectively.

Following from the above example, assume, however, that the User did not make an affirmative election that their order with an MEQ instruction execute against multiple contra-side orders that, in aggregate, meet the order's minimum quantity condition, such that the order with an MEQ instruction will execute against only individual contra-side orders upon entry that each satisfy the minimum quantity condition. Assume further that the User elected a minimum quantity condition at 400 shares. The order with an MEQ instruction would not execute against the two sell orders because the 300 share order with time priority at the top of the MIAX PEARL Equities Book is less than the incoming order's 400 share minimum quantity condition. The order with an MEQ instruction would then be cancelled or posted to the MIAX PEARL Equities Book, non-displayed, when encountering an order with time priority that is of insufficient size to satisfy its minimum quantity condition.

Operation When Resting on the MIAX PEARL Equities Book

Proposed Exchange Rule 2614(c)(7)(B) would describe the operation of orders with an MEQ instruction when resting on the MIAX PEARL Equities Book. Specifically, proposed Exchange Rule 2614(c)(7)(B) would provide that where there is insufficient size to satisfy an incoming order's minimum quantity condition, that incoming order with an MEQ instruction and a time-in-force of Regular Hours Only (''RHO'') [11] will not trade and will be posted on the MIAX PEARL Equities Book. Subparagraph (c)(7)(B)(i) of Exchange Rule 2614 would provide that when posted on the MIAX PEARL Equities Book, the order may only execute against individual incoming orders with a size that satisfies the minimum quantity condition.[12]

Subparagraph (c)(7)(B)(i)(1) of Exchange Rule 2614 would provide that an order with an MEQ instruction cedes execution priority when it would lock or cross an order against which it would otherwise execute if it were not for the minimum quantity condition.[13] The following example illustrates this behavior. Assume the NBBO is $10.00 by $10.10 and no orders are resting on the MIAX PEARL Equities Book. A non-displayed order to sell 100 shares at $10.10 is entered and posted to the MIAX PEARL Equities Book (''Order A''). A non-displayed order to buy 700 shares at $10.10 with a minimum quantity condition to execute against a single order of 500 shares is then entered and posted to the MIAX PEARL Equities Book (''Order B''). Order B does not execute against Order A because Order A does not satisfy Order B's minimum quantity condition of 500 shares. As a result, Order A is posted to the MIAX PEARL Equities Book at $10.10, creating an internally locked book. An order to buy 100 shares at $10.10 is then entered and executes against Order A at $10.10 for 100 shares ahead of Order B because Order B's minimum quantity condition of 500 shares requires it now execute against a single incoming order that is of sufficient size to satisfy its minimum quantity condition.

Subparagraph (c)(7)(B)(i)(2) of Exchange Rule 2614 would provide that if a resting non-displayed sell (buy) order did not meet the minimum quantity condition of a same-priced resting order to buy (sell) with an MEQ instruction, a subsequently arriving sell (buy) order that meets the minimum quantity condition will trade ahead of such resting non-displayed sell (buy) order at that price. The following example illustrates this behavior. Assume the NBBO is $10.00 by $10.10 and no orders are resting on the MIAX PEARL Equities Book. A non-displayed order to buy 700 shares at $10.10 with a minimum quantity condition to execute against a single order of 500 shares is entered and posted to the MIAX PEARL Equities Book (''Order A''). A non-displayed order to sell 100 shares at $10.10 is then entered and posted to the MIAX PEARL Equities Book (''Order B''). Order B does not execute against Order A because Order B does not satisfy Order A's single minimum quantity condition of 500 shares. As a result, Order B is posted to the MIAX PEARL Equities Book at $10.10, creating an internally locked book. An order to sell 500 shares at $10.10 is then entered and executes against Order A at $10.10 for 500 shares because the incoming order is of sufficient size to satisfy Order A's minimum quantity condition of 500 shares.

To reduce the occurrences of an internally crossed non-displayed market, the Exchange proposes to re-price incoming orders with an MEQ instruction where that order would be posted at a price that may cross a displayed order posted on the MIAX PEARL Equities Book. Subparagraph (c)(7)(B)(ii) of Exchange Rule 2614 would provide that where there is insufficient size to satisfy the minimum quantity condition of an incoming order to buy (sell) and that incoming order, if posted at its limit price, would cross a displayed order to sell (buy) resting on the MIAX PEARL Equities Book, the order to buy (sell) with the Minimum Execution Quantity instruction will have a working price equal to the price of the displayed order to sell (buy).[14] For example, an order to buy at $11.00 with a minimum quantity condition of 500 shares is entered and there is a displayed order resting on the MIAX PEARL Equities Book to sell 200 shares at $10.99. The resting order to sell does not contain sufficient size to satisfy the incoming order's minimum quantity condition of 500 shares. The price of the incoming buy order, if posted to the MIAX PEARL Equities Book, would cross the price of the resting sell order. In such case, to avoid an internally crossed book, the System will re-price the incoming buy order to $10.99, the locking price.

As discussed above, proposed subparagraph (c)(7)(B)(ii) of Exchange Rule 2614 seeks to prevent incoming orders with an MEQ instruction from being posted to the MIAX PEARL Equities Book at a price that crosses resting displayed contra-side orders by re-pricing the order with an MEQ instruction to the locking price. However, once resting on the MIAX PEARL Equities Book, it is possible that an incoming order may be of insufficient size to satisfy the resting order's minimum quantity condition, and therefore, post on the MIAX PEARL Equities Book at a price that crosses the resting order with a minimum quantity condition, resulting in an internally crossed non-displayed book. To address intra-market priority in such a scenario, the Exchange proposes to adopt subparagraph (c)(7)(B)(iii) of Exchange Rule 2614 to describe when an order with an MEQ instruction would not be eligible to trade to prevent executions from occurring that may be inconsistent

[11] Exchange Rule 2614(b)(2).

[12] This behavior is identical to that of the Cboe Equity Exchanges and MEMX. *See, e.g.,* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

[13] *Id.*

[14] The Exchange notes that this behavior proposed by the Exchange was previously adopted by the Cboe Exchanges. *See e.g.,* Securities Exchange Act Release No. 81457 (August 22, 2017), 82 FR 40812 (August 28, 2017) (SR-BatsEDGX–2017–34). The Cboe Equity Exchanges subsequently amended this functionality to cancel an order with a minimum quantity condition where, if posted, it would lock or cross the displayed price of an order on their book. *See, e.g.,* Securities Exchange Act Release No. 82943 (March 23, 2018), 83 FR 13574 (March 29, 2018) (SR-CboeEDGX–2018–008).

with intra-market price priority or would result in a non-displayed order trading ahead of a same-priced, same-side displayed order. The Exchange would not permit an order with an MEQ instruction that crosses other displayed or non-displayed orders on the MIAX PEARL Equities Book to trade at prices that are worse than the price of such contra-side orders. The Exchange would also not permit a resting order with an MEQ instruction to trade at a price equal to a contra-side displayed order.

Specifically, proposed Exchange Rule 2614(c)(7)(B)(iii) would provide that an order to buy (sell) with an MEQ instruction that is posted to the MIAX PEARL Equities Book will not be eligible to trade: (1) At a price equal to or above (below) any sell (buy) displayed orders that have a ranked price equal to or below (above) the price of such order with a Minimum Execution Quantity instruction; or (2) at a price above (below) any sell (buy) non-displayed order that has a ranked price below (above) the price of such order with a Minimum Execution Quantity instruction.[15]

Subparagraph (c)(7)(B)(iv) of Exchange Rule 2614 would provide that an order with an MEQ instruction that crosses an order on the MIAX PEARL Equities Book may execute at a price less aggressive than its ranked price against an incoming order so long as such execution is consistent with the above restrictions. The Exchange notes that this behavior is consistent with that of other exchanges.[16]

The following examples describe the proposed operation of an order with a Minimum Execution Quantity during an internally crossed market. This first example addresses intra-market priority amongst an order with an MEQ instruction and other non-displayed orders in an internally crossed market as well as when an execution may occur at prices less aggressive than the resting order's ranked price. Assume the NBBO is $10.10 by $10.16. A Midpoint Peg Order to buy with a minimum quantity condition to execute against a single order of 100 shares is resting on the MIAX PEARL Equities Book at $10.13, the midpoint of the NBBO (''Order A''). A non-displayed order to sell 50 shares at $10.12 is then entered (''Order B''). Because Order A's minimum quantity condition cannot be met, Order B will not trade with Order A and will be posted and ranked on the MIAX PEARL Equities Book at $10.12, its limit price. The Exchange now has a non-displayed buy order crossing a non-displayed sell order on the MIAX PEARL Equities Book. Then a non-displayed order to sell 25 shares at $10.11 is entered (''Order C''). Like was the case for Order B, Order C does not satisfy Order A's minimum quantity condition and Order C is posted and ranked on the MIAX PEARL Equities Book at $10.11, its limit price. The Exchange now has a non-displayed buy order crossing both non-displayed sell orders on the MIAX PEARL Equities Book. If the Exchange then receives an order to sell for 100 shares at $10.11 (''Order D''),[17] although Order D would be marketable against Order A at $10.13, it would not trade at $10.13 because it is above the price of all resting sell orders. Order D will instead execute against Order A at $10.11, receiving price improvement relative to the midpoint of the NBBO.

This second example addresses intra-market priority amongst displayed orders, non-displayed orders with an MEQ instruction and other non-displayed orders. The Exchange notes that the below behavior is not unique to an internally crossed market as the Exchange's priority rule, 2616(a), currently prohibits non-displayed orders, which would include non-displayed orders with an MEQ instruction, from trading ahead of same-priced, same-side displayed orders. Assume the NBBO is $10.00 by $10.04. A non-displayed order to buy 500 shares at $10.00 is resting on the MIAX PEARL Equities Book (''Order A''). A displayed order to buy 100 shares at $10.00 is then entered and posted to the MIAX PEARL Equities Book (''Order B''). The Exchange receives a non-displayed order to sell 600 shares at $10.00 with a minimum quantity condition to execute against a single order of 500 shares (''Order C''). Although Order A satisfies Order C's minimum quantity condition and has time priority ahead of Order B, no execution occurs because Order B is a displayed order and has execution priority over Order A, a non-displayed order. Order C does not execute against Order B because Order B does not satisfy Order C's minimum quantity condition. Order C is then posted to the MIAX PEARL Equities Book at $10.00, non-displayed.

Partial Executions

Proposed Exchange Rule 2614(c)(7)(C) would describe the handling of orders with an MEQ instruction that are partially executed either upon arrival or when resting on the MIAX PEARL Equities Book. Specifically, subparagraph (c)(7)(C) of Exchange Rule 2614 would provide that an order with an MEQ instruction may be partially executed so long as the execution size of the individual order or aggregate size of multiple orders, as applicable, is equal to or exceeds the minimum quantity condition provided in the instruction. Subparagraph (c)(7)(C)(i) of Exchange Rule 2614 would provide that any shares remaining after a partial execution will continue to be executed at a size that is equal to or exceeds the quantity provided in the instruction. Subparagraph (c)(7)(C)(ii) of Exchange Rule 2614 would provide that where the number of shares remaining are less than the minimum quantity condition provided in the instruction, the minimum quantity condition shall be equal to the number of shares remaining.[18]

Routing

An order with an MEQ instruction would be non-routable. Proposed Exchange Rule 2614(c)(7)(D) would provide that orders that include an MEQ instruction would not be eligible to be routed to an away Trading Center in accordance with Exchange Rule 2617(b).[19]

Operation of Order With an MEQ Instruction Pre-Open and During the Opening and Re-Opening Processes

Currently, Exchange Rule 2600(a) provides that the Exchange will not accept orders designated as Post Only with a time-in-force of RHO, ISOs, and all orders with a time-in-force of IOC prior to 9:30 a.m. Eastern Time. Likewise, Exchange Rule 2600(a) would be amended to also provide that orders with an MEQ instruction will not be accepted prior to 9:30 a.m. Eastern Time.[20]

Orders with an MEQ instruction will also not be eligible to participate in either the opening or re-opening process described under Exchange Rule 2615. Specifically, the Exchange proposes to

[15] This behavior is identical to that of the Cboe Equity Exchanges, MEMX, and the NYSE Exchanges. *See, e.g.,* EDGX Rule 11.6(h), MEMX Rule 11.6(f), *and* NYSE Rule 7.31(i)(3)(C).

[16] This behavior is identical to that of the Cboe Equity Exchanges and MEMX. *See, e.g.,* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

[17] The Exchange understands that on the NYSE Exchanges, Order D will be posted to the book at $10.11 and not execute against Order A at $10.13.

[18] The Exchange notes that this behavior is identical to that of the Cboe Equity Exchanges. *See, e.g.,* EDGX Rule 11.6(h) (stating that ''[w]here the number of shares remaining after a partial execution are less than the quantity provided in the instruction, the Minimum Execution Quantity shall be equal to the number of shares remaining''). *See also* IEX Rule 11.190(h)(11)(G)(ii)(b).

[19] This behavior is identical to that of the Cboe Equity Exchanges and MEMX. *See, e.g.,* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

[20] The Exchange notes that this is similar to the Cboe Equity Exchanges. *See, e.g.,* EDGX Rule 11.1(a)(1).

amend subparagraph (a)(1) of Exchange Rule 2615 to provide that orders with an MEQ instruction are not eligible to participate in the opening process and subparagraph (e) of Exchange Rule 2615 would provide that orders with an MEQ instruction that are to participate in the re-opening process will be cancelled or rejected.[21]

Implementation

Due to the technological changes associated with this proposed change, the Exchange will issue a trading alert publicly announcing the implementation date of this proposed rule change. The Exchange anticipates that the implementation date will be in either the second or third quarter of 2021.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[22] in general, and furthers the objectives of Section 6(b)(5),[23] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change would remove impediments to and promote just and equitable principles of trade because it would provide market participants, including institutional firms who ultimately represent individual retail investors in many cases, with optional functionality that would provide them with better control over their orders. Therefore, the proposal would also provide them with greater potential to improve the quality of their order executions.

As discussed above, the functionality proposed herein would enable Users to avoid transacting with smaller orders that they believe ultimately increases the cost of the transaction. Because the Exchange does not have this functionality, the Exchange believes that market participants, such as large institutions that transact a large number of orders on behalf of retail investors, have avoided sending large orders to the Exchange to avoid potentially more expensive transactions.[24] In this regard, the Exchange notes that the proposed new optional MEQ instruction may improve the Exchange's market by attracting more order flow. Such new order flow will further enhance the depth and liquidity on the Exchange, which supports just and equitable principles of trade. Furthermore, the proposed MEQ instruction is consistent with providing market participants with greater control over the nature of their executions so that they may achieve their trading goals and improve the quality of their executions.

Furthermore, the Exchange believes its proposal promotes just and equitable principles of trade because the proposed operation of the MEQ instruction is based on similar functionality at other exchanges.[25] As described further below, while the operation varies in certain ways from that of other exchanges, no aspect of the proposed MEQ instructions operation is unique to the Exchange and is already in place at other exchanges that offer minimum trade size functionality.

The proposal allows Users to designate the minimum individual execution size upon entry or alternatively designate a minimum acceptable quantity on an order that may aggregate multiple executions to meet the minimum quantity requirement. The Exchange notes this proposed default behavior is the only area where the proposal differs from that of other exchanges. Most other equity exchanges provide their members the option for their order with a minimum execution quantity instruction to execute upon entry against a single order or multiple orders in the aggregate. The CBOE Equity Exchanges default orders with a minimum execution quantity to execute against multiple aggregated orders upon entry. NASDAQ, the NYSE Exchanges, and IEX do not provide a default and require that their members make an election upon entry. MEMX is the only exchange that does not provide both options and only allows orders with a minimum execution quantity to execute against a single contra-side order upon entry. The Exchange believes this difference is immaterial as, like most other exchanges, both options will continue to be available to Users. The Exchange believes its proposal to default orders with an MEQ instruction to execute against individual orders that each meet minimum quantity condition upon entry promotes just and equitable principles of trade because it based on discussions with market participants and would enable Users to avoid interacting with small orders entered by professional traders without making an affirmative election to do so, possibly adversely impacting the execution of their larger order. Once posted to the MIAX PEARL Equities Book, the MEQ instruction operates like that of other exchanges where the order would only be eligible to execute against a single contra-side order.[26]

The Exchange also believes that re-pricing incoming orders with an MEQ instruction where that order may cross a displayed order posted on the MIAX PEARL Equities Book promotes just and equitable principles of trade because it enables the Exchange to avoid an internally crossed book. The proposed re-pricing is also similar to how the Exchange currently reprices non-displayed orders that cross the Protected Quotation of an external market.[27] The Exchange notes that this behavior was previously adopted by the Cboe Exchanges.[28] In addition, both IEX and NASDAQ also re-price minimum quantity orders to avoid an internally crossed book. In certain circumstances, NASDAQ re-prices buy (sell) orders to one minimum price increment below (above) the lowest (highest) price of resting orders that do not satisfy the minimum quantity condition.[29] IEX re-prices non-displayed orders, such as minimum quantity orders, that include a limit price more aggressive than the midpoint of the NBBO to the midpoint of the NBBO.[30] Moreover, the proposed optional aggregation functionality for the MEQ instruction is substantially similar to that offered by NASDAQ and IEX, both of which have been approved by the Commission.[31]

[21] The Exchange notes that this is similar to the Cboe Equity Exchanges. *See, e.g.,* EDGX Rule 11.7(a)(2) and (e)(1).

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] As noted, the proposal is designed to attract liquidity to the Exchange by allowing market participants to designate a minimum size of a contra-side order to interact with, thus providing them with functionality available to them on dark markets.

[25] *See supra* note 4.

[26] *See* EDGX Rule 11.6(h) *and* MEMX Rule 11.6(f).

[27] *See* Exchange Rule 2614(g)(2).

[28] *See, e.g.,* Securities Exchange Act Release No. 81457 (August 22, 2017), 82 FR 40812 (August 28, 2017 (SR-BatsEDGX–2017–34). The Cboe Equity Exchanges subsequently amended this functionality to cancel an order with a minimum quantity condition where, if posted, it would lock or cross the displayed price of an order on their book. *See, e.g.,* Securities Exchange Act Release No. 82943 (March 23, 2018), 83 FR 13574 (March 29, 2018) (SR-CboeEDGX–2018–008).

[29] *See* NASDAQ Rule 4703(e). For example, NASDAQ Rule 4703(e) provides that if there was an order to buy at $11 with a minimum quantity condition of 500 shares, and there were resting orders on the NASDAQ Book to sell 200 shares at $10.99 and 300 shares at $11, the order would be repriced to $10.98 and ranked at that price.

[30] *See* IEX Rule 11.190(h)(2).

[31] *See* Securities Exchange Act Release No. 73959 (December 30, 2014), 80 FR 582 (January 6, 2015)

The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and a national market system because it would ensure that there would not be an execution of a resting order with an MEQ instruction that either would be inconsistent with intra-market price priority or would result in a non-displayed order trading ahead of a same-side, same-priced displayed order. Specifically, the proposed rule change would protect displayed orders by preventing an order with an MEQ instruction from executing where it is locked by a contra-side displayed order. The proposed rule change also protects intra-market price priority by preventing a resting order with an MEQ instruction from executing where it is crossed by either a displayed or non-displayed order on the MIAX PEARL Equities Book. The Exchange also believes it is reasonable for: (i) An order with an MEQ instruction to cede execution priority when it would lock or cross an order against which it would otherwise execute if it were not for the minimum quantity condition; and (ii) a resting non-displayed order to cede execution priority to a subsequently arriving same-side order where that order is of sufficient size to satisfy a resting contra-side order's minimum quantity condition because doing so in both cases facilitates executions in accordance with the terms and conditions of each order. This portion of the proposed rule change is also substantially similar to minimum execution functionality on the Cboe Equity Exchanges and MEMX.[32]

*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. In fact, the Exchange believes that the proposal may have a positive effect on competition because it will enable the Exchange to offer functionality substantially similar to that offered by the Cboe Equity Exchanges, the NYSE Exchanges, NASDAQ, MEMX, and IEX.[33] As noted above, the Exchange believes its lack of this functionality has put it at a competitive disadvantage as market participants, such as large institutions that transact a large number of orders on behalf of retail investors, have avoided sending large orders to the Exchange to avoid potentially more expensive transactions. This proposal is designed to allow the Exchange to directly compete with other exchanges that offer similar minimum quantity functionality. The proposal would therefore promote competition because it is designed to attract liquidity to the Exchange by allowing market participants to designate a minimum size of a contra-side interest to interact with, thus providing them with functionality available to them on dark markets and other exchanges.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[34] and Rule 19b–4(f)(6)[35] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–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–PEARL–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–PEARL–2021–07, and should be submitted on or before April 9, 2021.

(order approving new optional functionality for Minimum Quantity Orders). *See* IEX Rule 11.190(b)(11) and Supplementary Material .03 (defining Minimum Quantity Orders and MinExec with Cancel Remaining and MinExec with AON Remaining). *See also* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (order approving the IEX exchange application, which included IEX's Minimum Quantity Orders). The Exchange also notes that a letter was submitted in strong support of NASDAQ at the time they proposed similar changes to the operation of their Minimum Quantity order attribute under NASDAQ Rule 4703(e). *See* letter to the Commission from James J. Angel, Associate Professor of Finance, Georgetown University, dated November 26, 2014.

[32] *See supra* note 4.

[33] *Id.*

[34] 15 U.S.C. 78s(b)(3)(A).

[35] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–05674 Filed 3–18–21; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–91322; File No. SR–NYSEArca–2021–17]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Listing and Trading of Shares of the T. Rowe Price U.S. Equity Research ETF Under NYSE Arca Rule 8.601–E

March 15, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 8, 2021, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Rule 8.601–E: T. Rowe Price U.S. Equity Research ETF. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange has adopted NYSE Arca Rule 8.601–E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of Active Proxy Portfolio Shares, which are securities issued by an actively managed open-end investment management company.[4] Commentary .01 to Rule 8.601–E requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Active Proxy Portfolio Shares on the Exchange. Therefore, the Exchange is submitting this proposal in order to list and trade shares (''Shares'') as Active Proxy Portfolio Shares of the T. Rowe Price U.S. Equity Research ETF (the ''Fund'') under Rule 8.601–E.

Key Features of Active Proxy Portfolio Shares

While funds issuing Active Proxy Portfolio Shares will be actively-managed and, to that extent, will be similar to Managed Fund Shares, Active Proxy Portfolio Shares differ from Managed Fund Shares in the following important respects. First, in contrast to Managed Fund Shares, which are actively-managed funds listed and traded under NYSE Arca Rule 8.600–E [5] and for which a ''Disclosed Portfolio'' is required to be disseminated at least once daily,[6] the portfolio for each series of Active Proxy Portfolio Shares will be publicly disclosed within at least 60 days following the end of every fiscal quarter in accordance with normal disclosure requirements otherwise applicable to open-end management investment companies registered under the Investment Company Act of 1940 (the ''1940 Act'').[7] The composition of the portfolio of each series of Active Proxy Portfolio Shares would not be available at commencement of Exchange listing and trading. Second, in connection with the creation and redemption of Active Proxy Portfolio Shares, such creation or redemption may be exchanged for a Proxy Portfolio

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR–NYSEArca–2019–95). Rule 8.601–E(c)(1) provides that ''[t]he term ''Active Proxy Portfolio Share'' means a security that (a) is issued by a investment company registered under the Investment Company Act of 1940 (''Investment Company'') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified minimum number of shares, or multiples thereof, in return for a deposit by the purchaser of the Proxy Portfolio and/or cash with a value equal to the next determined net asset value (''NAV''); (c) when aggregated in the same specified minimum number of Active Proxy Portfolio Shares, or multiples thereof, may be redeemed at a holder's request in return for the Proxy Portfolio and/or cash to the holder by the issuer with a value equal to the next determined NAV; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.'' Rule 8.601–E(c)(2) provides that ''[t]he term ''Actual Portfolio'' means the identities and quantities of the securities and other assets held by the Investment Company that shall form the basis for the Investment Company's calculation of NAV at the end of the business day.'' Rule 8.601–E(c)(3) provides that ''[t]he term ''Proxy Portfolio'' means a specified portfolio of securities, other financial instruments and/or cash designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares as provided in the exemptive relief pursuant to the Investment Company Act of 1940 applicable to such series.''

[5] The Commission has previously approved listing and trading on the Exchange of a number of issues of Managed Fund Shares under NYSE Arca Rule 8.600–E. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR–NYSEArca–2010–118) (order approving Exchange listing and trading of the SiM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF). The Commission also has approved a proposed rule change relating to generic listing standards for Managed Fund Shares. Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016 (SR–NYSEArca–2015–110) (amending NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

[6] NYSE Arca Rule 8.600–E(c)(2) defines the term ''Disclosed Portfolio'' as the identities and quantities of the securities and other assets held by the Investment Company that will form the basis for the Investment Company's calculation of net asset value at the end of the business day. NYSE Arca Rule 8.600–E(d)(2)(B)(i) requires that the Disclosed Portfolio will be disseminated at least once daily and will be made available to all market participants at the same time.

[7] A mutual fund is required to file with the Commission its complete portfolio schedules for the second and fourth fiscal quarters on Form N–CSR under the 1940 Act. Information reported on Form N–PORT for the third month of a fund's fiscal quarter will be made publicly available 60 days after the end of a fund's fiscal quarter. Form N–PORT requires reporting of a fund's complete portfolio holdings on a position-by-position basis on a quarterly basis within 60 days after fiscal quarter end. Investors can obtain a fund's Statement of Additional Information (''SAI''), its Shareholder Reports, its Form N–CSR, filed twice a year, and its Form N–CEN, filed annually. A fund's SAI and Shareholder Reports will be available free upon request from the Investment Company, and those documents and the Form N–PORT, Form N–CSR, and Form N–CEN may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.*

and/or cash with a value equal to the next-determined NAV. A series of Active Proxy Portfolio Shares will disclose the Proxy Portfolio on a daily basis, which, as described above, is designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares, instead of the actual holdings of the Investment Company, as provided by a series of Managed Fund Shares.

The Commission has previously approved listing and trading on the Exchange of series of Active Proxy Portfolio Shares under NYSE Arca Rule 8.601–E.[8]

The Shares of the Fund will be issued by T. Rowe Price Exchange-Traded Funds, Inc. (''Issuer''), a corporation organized under the laws of the State of Maryland that is comprised of multiple separate series, and registered with the Commission as an open-end management investment company.[9] The investment adviser for the Fund will be T. Rowe Price Associates, Inc. (''Adviser''). State Street Bank and Trust Co. will serve as the Fund's transfer agent, custodian, and will conduct certain administrative functions (the ''Transfer Agent'' or ''Custodian''). T. Rowe Price Investment Services, Inc., a registered broker dealer and an affiliate of the Adviser, will serve as the distributor (''Distributor'') of the Shares.

Commentary .04 to NYSE Arca Rule 8.601–E provides that, if the investment adviser to the Investment Company issuing Active Proxy Portfolio Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition and/or changes to such Investment Company's Actual Portfolio and/or Proxy Portfolio. Any person related to the investment adviser or Investment Company who makes decisions pertaining to the Investment Company's Actual Portfolio and/or Proxy Portfolio or has access to non-public information regarding the Investment Company's Actual Portfolio and/or Proxy Portfolio or changes thereto must be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Actual Portfolio and/or Proxy Portfolio or changes thereto. Commentary .04 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Rule 5.2–E(j)(3); however, Commentary .04, in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer, reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds.[10] Commentary .04 is also similar to Commentary .06 to Rule 8.600–E related to Managed Fund Shares, except that Commentary .04 relates to establishment and maintenance of a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, applicable to an Investment Company's Actual Portfolio and/or Proxy Portfolio or changes thereto, and not just to the underlying portfolio, as is the case with Managed Fund Shares.

In addition, Commentary .05 to Rule 8.601–E provides that any person or entity, including a custodian, Reporting Authority, distributor, or administrator, who has access to non-public information regarding the Investment Company's Actual Portfolio or the Proxy Portfolio or changes thereto, must be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the applicable Investment Company Actual Portfolio or the Proxy Portfolio or changes thereto. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity will erect and maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company Actual Portfolio or Proxy Portfolio.

The Adviser is not registered as a broker-dealer but is affiliated with a broker-dealer and has implemented and will maintain a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's Actual Portfolio and/or Proxy Portfolio.

In the event (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or any sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with

[8] *See* Securities Exchange Act Release Nos. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR–NYSEArca–2019–95) (Notice of Filing of Amendment No. 6 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 6, to Adopt NYSE Arca Rule 8.601–E to Permit the Listing and Trading of Active Proxy Portfolio Shares and To List and Trade Shares of the Natixis U.S. Equity Opportunities ETF Under Proposed NYSE Arca Rule 8.601–E) (''Natixis Order''); 89192 (June 30, 2020), 85 FR 40699 (July 7, 2020) (SR–NYSEArca–2019–96) (Notice of Filing of Amendment No. 5 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 5, to List and Trade Two Series of Active Proxy Portfolio Shares Issued by the American Century ETF Trust under NYSE Arca Rule 8.601–E) (''American Century Order''); 89191 (June 30, 2020), 85 FR 40358 (July 6, 2020) (SR–NYSEArca–2019–92) (Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 3, to List and Trade Four Series of Active Proxy Portfolio Shares Issued by T. Rowe Price Exchange-Traded Funds, Inc. under NYSE Arca Rule 8.601–E) (''T. Rowe Price Approval Order''); 89438 (July 31, 2020), 85 FR 47821 (August 6, 2020) (SR–NYSEArca–2020–51) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to List and Trade Shares of Natixis Vaughan Nelson Select ETF and Natixis Vaughan Nelson MidCap ETF under NYSE Arca Rule 8.601–E). *See also,* Securities Exchange Act Release No. 88887 (May 15, 2020), 85 FR 30990 (May 21, 2020) (SR-CboeBZX–2019–107) (Notice of Filing of Amendment No. 5 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 5, to Adopt Rule 14.11(m), Tracking Fund Shares, and to List and Trade Shares of the Fidelity Blue Chip Value ETF, Fidelity Blue Chip Growth ETF, and Fidelity New Millennium ETF).

[9] The Issuer is registered under the 1940 Act. On February 8, 2021, the Issuer filed a registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) and under the 1940 Act relating to the Fund (File Nos. 333–235450 and 811–23494 (the ''Registration Statement''). The Issuer filed a seventh amended application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14214), dated October 16, 2019 (''Application''). On December 10, 2019, the Commission issued an order (''Exemptive Order'') under the 1940 Act granting the exemptions requested in the Application (Investment Company Act Release No. 33713, December 10, 2019). Investments made by the Fund will comply with the conditions set forth in the Application and the Exemptive Order. The description of the operation of the Fund herein is based, in part, on the Registration Statement and the Application. The Exchange will not commence trading in Shares of the Fund until the Registration Statement is effective.

[10] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel will be subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violations, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's Actual Portfolio and/or Proxy Portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's Actual Portfolio and/or Proxy Portfolio or changes thereto. Any person related to the Adviser or the Fund who makes decisions pertaining to the Fund's Actual Portfolio or Proxy Portfolio or has access to non-public information regarding the Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto is subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto.

In addition, any person or entity, including any service provider for the Fund, who has access to non-public information regarding the Fund's Actual Portfolio or the Proxy Portfolio or changes thereto, will be subject to procedures reasonably designed to prevent the use and dissemination of material non-public information regarding the Fund's Actual Portfolio and/or the Proxy Portfolio or changes thereto. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity has erected and will maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to the Fund's Actual Portfolio and/or Proxy Portfolio.

Description of the Fund

According to the Application, for the Fund, the Adviser will identify its Proxy Portfolio, which could be based on a broad-based securities index (*e.g.,* the S&P 500) or the Fund's recently disclosed portfolio holdings. Although the Adviser may change the Fund's Proxy Portfolio at any time, the Adviser currently does not expect to make such changes more frequently than quarterly (for example, in connection with the release of the Fund's portfolio holdings). The Adviser will publish a new Proxy Portfolio for the Fund only before the commencement of trading of the Fund's Shares on each ''Business Day,'' [11] and the Adviser will not make intra-day changes to the Proxy Portfolio except to correct errors in the published Proxy Portfolio.

The Fund will disclose the ''Daily Deviation'' [12] between the Proxy Portfolio and the Actual Portfolio daily, as well as ''Empirical Percentiles,'' [13] which are quantitative summaries of the Daily Deviation data for the last year. The Fund will also disclose its ''Tracking Error.'' [14] The Fund's Proxy Portfolio will be determined such that at least 80% of its total assets will overlap with the portfolio weightings of the Actual Portfolio.

In addition, on each Business Day, before commencement of trading of Shares, the ''Portfolio Overlap'' will be published on the Fund's website. The Portfolio Overlap will be the percentage weight overlap between the prior Business Day's Proxy Portfolio's holdings compared to the holdings of the Actual Portfolio that formed the basis for the Fund's calculation of NAV at the end of the prior Business Day.[15]

The Proxy Portfolio will not include any asset that is ineligible to be in the Actual Portfolio of the Fund.

T. Rowe Price U.S. Equity Research ETF

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order and the holdings will be consistent with all requirements in the Application and Exemptive Order.[16] Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The Fund's investment objective will be to provide long-term capital growth.

The Fund will attempt to create a portfolio with similar characteristics to a broad-based securities index (*e.g.,* the S&P 500) with the potential to provide excess returns relative to such index. The Fund will use a disciplined portfolio construction process whereby it weights each sector and industry approximately the same as the applicable index. Within each sector and industry, the weighting of individual fund holdings can vary significantly from their weighting within the applicable index. The Fund will attempt to outperform such index by overweighting those stocks that are viewed favorably relative to their weighting in such index, and underweighting or avoiding those stocks that are viewed negatively.

Investment Restrictions

The Shares of the Fund will conform to the initial and continued listing criteria under Rule 8.601–E. The Fund's holdings will be limited to and consistent with permissible holdings as described in the Application and all requirements in the Application and Exemptive Order.[17]

The Fund's investments, including derivatives, will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2X or −3X) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

Purchases and Redemptions

The Issuer will offer, issue and sell Shares of the Fund to investors only in specified minimum size ''Creation Units'' through the Distributor on a continuous basis at the NAV per Share next determined after an order in proper form is received. The NAV of the Fund is expected to be determined as of 4:00 p.m. E.T. on each Business Day. The Issuer will sell and redeem Creation

[11] ''Business Day'' is defined to mean any day that the Exchange is open, including any day when the Fund satisfies redemption requests as required by section 22(e) of the 1940 Act.

[12] According to the Registration Statement, the Daily Deviation shows the difference in performance between the NAV of the Fund and the NAV of the Proxy Portfolio.

[13] According to the Registration Statement, the Empirical Percentiles shows frequency and magnitude of performance differences between the Fund and the Proxy Portfolio over time.

[14] According to the Registration Statement, ''Tracking Error'' is the deviation over the past three months of the daily proxy spread (*i.e.,* the difference, in percentage terms, between the Proxy Portfolio's per share NAV and that of the fund at the end of the trading day).

[15] According to the Registration Statement, ''Portfolio Overlap'' indicates how much of the Fund's portfolio securities overlap with the Fund's Proxy Portfolio as of the end of the prior Business Day.

[16] According to the Application and Exemptive Order, the Fund will only invest in exchange-traded common stocks, common stocks listed on a foreign exchange that trade on such exchange synchronously with the Shares (''foreign common stocks'') in the Exchange's Core Trading Session (normally 9:30 a.m. to 4:00 p.m. Eastern time (''E.T.'')), ETFs traded on a U.S. exchange, exchange-traded notes (''ETNs'') traded on a U.S. exchange, U.S. exchange-traded preferred stocks, U.S. exchange-traded American Depositary Receipts (''ADRs''), U.S. exchange-traded real estate investment trusts, U.S. exchange-traded commodity pools, U.S. exchange-traded metals trusts, U.S. exchange-traded currency trusts and U.S. exchange-traded futures contracts (collectively, ''exchange-traded instruments'') that trade synchronously with the Fund's Shares, as well as cash and cash equivalents. For purposes of this filing, cash equivalents are short-term U.S. Treasury securities, government money market funds, and repurchase agreements. The Fund will not hold short positions or invest in derivatives other than U.S. exchange-traded futures, will not borrow for investment purposes, and will not purchase any securities that are illiquid investments at the time of purchase.

[17] *See* note 9, *supra.*

Units of the Fund only on a Business Day. A Creation Unit will consist of at least 5,000 Shares.

Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments''). The names and quantities of the instruments that constitute the Deposit Instruments and the Redemption Instruments for the Fund (collectively, the ''Creation Basket'') will be the same as the Fund's designated Proxy Portfolio, except to the extent that the Fund requires purchases and redemptions to be made entirely or in part on a cash basis, as described below.

If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

The Fund will adopt and implement policies and procedures regarding the composition of its Creation Baskets. The policies and procedures will set forth detailed parameters for the construction and acceptance of baskets that are in the best interests of the Fund, including the process for any revisions to or deviations from, those parameters.

The Fund normally will issue and redeem Creation Units in-kind, but may require purchases and redemptions to be made entirely or in part on a cash basis. In such an instance, the Fund will announce, before the open of trading in the Core Trading Session on a given Business Day, that all purchases, all redemptions or all purchases and redemptions on that day will be made wholly or partly in cash. The Fund may also determine, upon receiving a purchase or redemption order from an Authorized Participant (as defined below), to have the purchase or redemption, as applicable, be made entirely or in part in cash.[18]

Each Business Day, before the open of trading on the Exchange, the Fund will cause to be published through the National Securities Clearing Corporation (''NSCC'') the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any) for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Proxy Portfolio will be published each Business Day regardless of whether the Fund decides to issue or redeem Creation Units entirely or in part on a cash basis.

All orders to purchase Creation Units must be placed with the Distributor by or through an Authorized Participant, which is a member or participant of a clearing agency registered with the Commission, which has a written agreement with the Fund or one of its service providers that allows the Authorized Participant to place orders for the purchase and redemption of Creation Units. Except as otherwise permitted, no promoter, principal underwriter (*e.g.,* the Distributor) or affiliated person of the Fund, or any affiliated person of such person, will be an Authorized Participant in Shares.

Validly submitted orders to purchase or redeem Creation Units on each Business Day will be accepted until the end of the Core Trading Session (the ''Order Cut-Off Time''), generally 4:00 p.m. E.T., on the Business Day that the order is placed (the ''Transmittal Date''). All Creation Unit orders must be received by the Distributor no later than the Order Cut-Off Time in order to receive the NAV determined on the Transmittal Date. When the Exchange closes earlier than normal, the Fund may require orders for Creation Units to be placed earlier in the Business Day.

Availability of Information

The Fund's website (*www.troweprice.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's website will include on a daily basis, per Share for the Fund, the prior Business Day's NAV and the ''Closing Price'' or ''Bid/Ask Price,'' [19] and a calculation of the premium/discount of the Closing Price or Bid/Ask Price against such NAV. [20] The Adviser has represented that the Fund's website will also provide: (1) Any other information regarding premiums/discounts as may be required for other ETFs under Rule 6c–11 under the 1940 Act, as amended, and (2) any information regarding the bid/ask spread for the Fund as may be required for other ETFs under Rule 6c–11 under the 1940 Act, as amended. The website and information will be publicly available at no charge. The Fund's website also will disclose the information required under Rule 8.601–E(c)(3).[21]

The Proxy Portfolio holdings (including the identity and quantity of investments in the Proxy Portfolio) will be publicly available on the Fund's website before the commencement of trading in Shares on each Business Day.

The website also will include information relating to Portfolio Overlap, Daily Deviation, Empirical Percentile and Tracking Error for the Fund, as discussed above.

The Exchange notes that the Application provides that the Issuer will comply with Regulation Fair Disclosure, which prohibits selective disclosure of any material non-public information.

Typical mutual fund-style annual, semi-annual and quarterly disclosures contained in the Fund's Commission filings will be provided on the Fund's website on a current basis.[22] Thus, the Fund will publish the portfolio contents of its Actual Portfolio on a periodic basis within at least 60 days following the end of every fiscal quarter.

Investors can also obtain the Fund's prospectus, SAI, shareholder reports, Form N–CSR, Form N–PORT and Form N–CEN. Investors may access complete portfolio schedules for the Fund on Form N–CSR and Form N–PORT. The prospectus, SAI and shareholder reports

[18] The Adviser represents that, to the extent that the Fund allows creations and redemptions to be conducted in cash, such transactions will be effected in the same manner for all Authorized Participants transacting in cash.

[19] The records relating to Bid/Ask Prices will be retained by the Fund or its service providers. The ''Bid/Ask Price'' is the midpoint of the highest bid and lowest offer based upon the National Best Bid and Offer as of the time of calculation of the Fund's NAV. The ''National Best Bid and Offer'' is the current national best bid and national best offer as disseminated by the Consolidated Quotation System or UTP Plan Securities Information Processor. The ''Closing Price'' of Shares is the official closing price of the Shares on the Exchange.

[20] The ''premium/discount'' refers to the premium or discount to NAV at the end of a trading day and will be calculated based on the last Bid/Ask Price or the Closing Price on a given trading day.

[21] *See* note 4, *supra.* Rule 8.601–E(c)(3) provides that the website for each series of Active Proxy Portfolio Shares shall disclose the information regarding the Proxy Portfolio as provided in the exemptive relief pursuant to the Investment Company Act of 1940 applicable to such series, including the following, to the extent applicable:

(i) Ticker symbol;

(ii) CUSIP or other identifier;

(iii) Description of holding;

(iv) Quantity of each security or other asset held; and

(v) Percentage weighting of the holding in the portfolio.

[22] *See* note 7, *supra.*

will be available free upon request from the Fund, and those documents and the Form N–CSR, Form N–PORT and Form N–CEN may be viewed on-screen or downloaded from the Commission's website at *http://www.sec.gov.*

Information regarding the market price of Shares and trading volume in Shares, will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares and U.S. exchange-traded instruments (excluding futures contracts) will be available via the Consolidated Tape Association (''CTA'') high-speed line, from the exchanges on which such securities trade, or through major market data vendors or subscription services. Intraday price information for all exchange-traded instruments, which include all eligible instruments except cash and cash equivalents, will be available from the exchanges on which they trade, or through major market data vendors or subscription services. Intraday price information for cash equivalents is available through major market data vendors, subscription services and/or pricing services.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[23] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.601–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund will be halted.

Specifically, Rule 8.601–E(d)(2)(D) provides that the Exchange may consider all relevant factors in exercising its discretion to halt trading in a series of Active Proxy Portfolio Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the series of Active Proxy Portfolio Shares inadvisable. These may include: (a) The extent to which trading is not occurring in the securities and/or the financial instruments composing the Proxy Portfolio and/or Actual Portfolio; or (b) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

In addition, if the Exchange becomes aware that the NAV, Proxy Portfolio or Actual Portfolio with respect to a series of Active Proxy Portfolio Shares is not disseminated to all market participants at the same time, the Exchange shall halt trading in such series until such time as the NAV, Proxy Portfolio or Actual Portfolio is available to all market participants at the same time.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace in all trading sessions in accordance with NYSE Arca Rule 7.34–E(a). As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.601–E. The Exchange has appropriate rules to facilitate trading in the Shares during all trading sessions.

A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. In addition, pursuant to Rule 8.601–E(d)(1)(B), the Exchange, prior to commencement of trading in the Shares, will obtain a representation from the Issuer of the Shares that the NAV per Share will be calculated daily and that the NAV, Proxy Portfolio and the Actual Portfolio for the Fund will be made available to all market participants at the same time.

With respect to the Fund, all of the Exchange member obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with Exchange rules and federal securities laws, and the Exchange and the Financial Industry Regulatory Authority, Inc. (''FINRA'') will continue to monitor Exchange members for compliance with such requirements.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Exchange, as well as cross market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[24] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, or the Exchange or both will communicate as needed regarding trading in the Shares and underlying exchange-traded instruments with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, or the Exchange or both may obtain trading information regarding trading such securities and exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[25]

The Adviser will make available daily to FINRA and the Exchange the Actual Portfolio of the Fund, upon request, in order to facilitate the performance of the surveillances referred to above.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Commentary .03 to NYSE Arca Rule 8.601–E provides that the Exchange will implement and maintain written surveillance procedures for Active Proxy Portfolio Shares. As part of these surveillance procedures, the Investment Company's investment adviser will upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily Actual Portfolio holdings of each series of Active Proxy Portfolio Shares.

[23] *See* NYSE Arca Rule 7.12–E.

[24] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[25] For a list of the current members of ISG, *see www.isgportal.org.*

The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Active Proxy Portfolio Shares on the Exchange, including the ability to monitor compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of Active Proxy Portfolio Shares.

The Exchange will utilize its existing procedures to monitor the Fund's compliance with the requirements of Rule 8.601–E. For example, the Exchange will continue to use intraday alerts that will notify Exchange personnel of trading activity throughout the day that may indicate that unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require from the Issuer of Shares, upon initial listing and periodically thereafter, a representation that it is in compliance with Rule 8.601–E. The Exchange notes that Commentary .01 to Rule 8.601–E requires the Issuer of Shares to notify the Exchange of any failure to comply with the continued listing requirements of Rule 8.601–E. In addition, the Exchange will require the Issuer to represent that it will notify the Exchange of any failure to comply with the terms of applicable exemptive and no-action relief. As part of its surveillance procedures, the Exchange will rely on the foregoing procedures to become aware of any non-compliance with the requirements of Rule 8.601–E.

With respect to the Fund, all statements and representations made in this filing regarding (a) the description of the portfolio or reference asset, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange. The Exchange will obtain a representation from the Issuer, prior to commencement of trading in the Shares of the Fund, that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

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 prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[28]

With respect to the proposed listing and trading of Shares of the Fund, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.601–E. One-hundred percent of the value of the Fund's Actual Portfolio (except for cash, cash equivalents and Treasury securities) at the time of purchase will be listed on U.S. or foreign securities exchanges (or, in the limited case of futures contracts, U.S. futures exchanges). The listing and trading of such securities is subject to rules of the exchanges on which they are listed and traded, as approved by the Commission.

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order and the holdings will be consistent with all requirements in the Application and Exemptive Order.[29] The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and underlying exchange-traded instruments with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities and exchange-traded instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in such securities and exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The daily dissemination of the identity and quantity of Proxy Portfolio component investments, together with the right of Authorized Participants to create and redeem each day at the NAV, will be sufficient for market participants to value and trade shares in a manner that will not lead to significant deviations between the Bid/Ask Price and NAV of shares of a series of Active Proxy Portfolio Shares.

The Fund's investments, including derivatives, will be consistent with its investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2X or ^3X) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

With respect to the Fund, the proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the Issuer, prior to commencement of trading in the Shares, that the NAV per Share of the Fund will be calculated daily and that the NAV, Proxy Portfolio and Actual Portfolio will be made available to all market participants at the same time. Investors can also obtain the Fund's SAI, shareholder reports, and its Form N–CSR, Form N–PORT and Form N–CEN. The Fund's SAI and shareholder reports will be available free upon request from the Fund, and those documents and the Form N–CSR, Form N–PORT and Form N–CEN may be viewed on-screen or downloaded from the Commission's website.

Commentary .03 to NYSE Arca Rule 8.601–E provides that the Exchange will implement and maintain written surveillance procedures for Active Proxy Portfolio Shares. As part of these surveillance procedures, the Investment Company's investment adviser will, upon request by the Exchange or FINRA, on behalf of the Exchange, make available to the Exchange or FINRA the daily portfolio holdings of each series of Active Proxy Portfolio Shares. The Exchange believes that the ability to access the information on an as needed basis will provide it with sufficient information to perform the necessary regulatory functions associated with listing and trading series of Active Proxy Portfolio Shares on the Exchange, including the ability to monitor

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

[28] The Exchange represents that, for initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act, as provided by NYSE Arca Rule 5.3–E.

[29] *See* note 9, *supra.*

compliance with the initial and continued listing requirements as well as the ability to surveil for manipulation of Active Proxy Portfolio Shares. With respect to the Fund, the Adviser will make available daily to FINRA and the Exchange the portfolio holdings of the Fund upon request in order to facilitate the performance of the surveillances referred to above.

The Exchange will utilize its existing procedures to monitor Issuer compliance with the requirements of Rule 8.601–E. For example, the Exchange will continue to use intraday alerts that will notify Exchange personnel of trading activity throughout the day that may indicate that unusual conditions or circumstances are present that could be detrimental to the maintenance of a fair and orderly market. The Exchange will require from the Issuer of the Shares, upon initial listing and periodically thereafter, a representation that it is in compliance with Rule 8.601–E. The Exchange notes that Commentary .01 to Rule 8.601–E requires the Issuer of Shares to notify the Exchange of any failure to comply with the continued listing requirements of Rule 8.601–E. In addition, the Exchange will require the Issuer to represent that it will notify the Exchange of any failure to comply with the terms of applicable exemptive and no-action relief. The Exchange will rely on the foregoing procedures to become aware of any non-compliance with the requirements of Rule 8.601–E.

In addition, with respect to the Fund, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency.

Quotation and last sale information for the Shares and U.S. exchange-traded instruments (excluding futures contracts) will be available via the CTA high-speed line, from the exchanges on which such securities trade, or through major market data vendors or subscription services. Intraday price information for all exchange-traded instruments, which include all eligible instruments except cash and cash equivalents, will be available from the exchanges on which they trade, or through major market data vendors or subscription services. Intraday price information for cash equivalents is available through major market data vendors, subscription services and/or pricing services.

The website for the Fund will include a form of the prospectus for the Fund that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.601–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to the Proxy Portfolio, and quotation and last sale information for the Shares. The Proxy Portfolio holdings (including the identity and quantity of investments in the Proxy Portfolio) will be publicly available on the Fund's website before the commencement of trading in Shares on each Business Day. The Shares will conform to the initial and continued listing criteria under Rule 8.601–E.

The Fund's holdings will conform to the permissible investments as set forth in the Application and Exemptive Order and the holdings will be consistent with all requirements in the Application and Exemptive Order.[30] Any foreign common stocks held by the Fund will be traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The components of the Fund's Actual Portfolio will (a) be listed on an exchange and the primary trading session of such exchange will trade synchronously with the Exchange's Core Trading Session, as defined in Rule 7.34–E(a); (b) with respect to exchange-traded futures, be listed on a U.S. futures exchange; or (c) consist of cash and cash equivalents.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange will obtain a representation from the Issuer, prior to commencement of trading in the Shares of the Fund, that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

As noted above, with respect to the Fund, the Exchange has in place surveillance procedures relating to trading in the Fund's Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, with respect to the Fund, investors will have ready access to information regarding the Proxy Portfolio and quotation and last sale information for the Shares.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change would permit listing and trading of another type of actively-managed ETF that has characteristics different from existing actively-managed and index ETFs and would introduce additional competition among various ETF products to the benefit of investors.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[31] and Rule 19b–4(f)(6) thereunder.[32] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[33]

[30] *See* note 9, *supra.*

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b–4(f)(6).

[33] In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days

A proposed rule change filed under Rule 19b–4(f)(6) [34] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[35] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The proposed rule change is substantially similar to other Active Proxy Portfolio Shares that the Commission previously approved under NYSE Arca Rule 8.601–E [36] and does not raise any novel regulatory issues. Accordingly, the Commission waives the operative delay and designates the proposed rule change operative upon filing.[37]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [38] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca-2021–17 on the subject line.

*Paper comments:*

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

All submissions should refer to File Number SR–NYSEArca-2021–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca-2021–17 and should be submitted on or before April 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has complied with this requirement.

[34] 17 CFR 240.19b–4(f)(6).

[35] 17 CFR 240.19b–4(f)(6)(iii).

[36] *See* note 8, *supra.*

[37] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[38] 15 U.S.C. 78s(b)(2)(B).

[39] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–91326; File No. SR–CboeBZX–2021–019)**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the VanEck Bitcoin Trust, Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

March 15, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2021, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to list and trade shares of the VanEck Bitcoin Trust (the ''Trust''),[3] under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The shares of the Trust are referred to herein as the ''Shares.''

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Trust was formed as a Delaware statutory trust on December 17, 2020 and is operated as a grantor trust for U.S. federal tax purposes. The Trust has no fixed termination date.

the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(e)(4),[4] which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.[5] VanEck Digital Assets, LLC is the sponsor of the Trust (''Sponsor''). The Shares will be registered with the Commission by means of the Trust's registration statement on Form S–1 (the ''Registration Statement'').[6]

**Background**

Bitcoin is a digital asset based on the decentralized, open source protocol of the peer-to-peer computer network launched in 2009 that governs the creation, movement, and ownership of bitcoin and hosts the public ledger, or ''blockchain,'' on which all bitcoin transactions are recorded (the ''Bitcoin Network'' or ''Bitcoin''). The decentralized nature of the Bitcoin Network allows parties to transact directly with one another based on cryptographic proof instead of relying on a trusted third party. The protocol also lays out the rate of issuance of new bitcoin within the Bitcoin Network, a rate that is reduced by half approximately every four years with an eventual hard cap of 21 million. It's generally understood that the combination of these two features—a systemic hard cap of 21 million bitcoin and the ability to transact trustlessly with anyone connected to the Bitcoin Network—gives bitcoin its value.[7]

The first rule filing proposing to list an exchange-traded product to provide exposure to bitcoin in the U.S. was submitted by the Exchange on June 30, 2016.[8] At that time, blockchain technology, and digital assets that utilized it, were relatively new to the broader public. The market cap of all bitcoin in existence at that time was approximately $10 billion. No registered offering of digital asset securities or shares in an investment vehicle with exposure to bitcoin or any other cryptocurrency had yet been conducted, and the regulated infrastructure for conducting a digital asset securities offering had not begun to develop.[9] Similarly, regulated U.S. bitcoin futures contracts did not exist. The Commodity Futures Trading Commission (the ''CFTC'') had determined that bitcoin is a commodity,[10] but had not engaged in significant enforcement actions in the space. The New York Department of Financial Services (''NYDFS'') adopted its final BitLicense regulatory framework in 2015, but had only approved four entities to engage in activities relating to virtual currencies (whether through granting a BitLicense or a limited-purpose trust charter) as of June 30, 2016.[11] While the first over-the-counter bitcoin fund launched in 2013, public trading was limited and the fund had only $60 million in assets.[12] There were very few, if any, traditional financial institutions engaged in the space, whether through investment or providing services to digital asset companies. In January 2018, the Staff of the Commission noted in a letter to the Investment Company Institute and SIFMA that it was not aware, at that time, of a single custodian providing fund custodial services for digital assets.[13]

Fast forward to the first quarter of 2021 and the digital assets financial ecosystem, including bitcoin, has progressed significantly. The development of a regulated market for digital asset securities has significantly evolved, with market participants having conducted registered public offerings of both digital asset securities [14] and shares in investment vehicles holding bitcoin futures.[15] Additionally, licensed and regulated service providers have emerged to provide fund custodial services for digital assets, among other services. For example, in December 2020, the Commission adopted a conditional no-action position permitting certain special purpose broker-dealers to custody digital asset securities under Rule 15c3–3 under the Exchange Act; [16] in September 2020, the Staff of the Commission released a no-action letter permitting certain broker-dealers to operate a non-custodial Alternative Trading System (''ATS'') for digital asset securities, subject to specified conditions; [17] in October 2019, the Staff of the Commission granted temporary relief from the clearing agency

[4] The Commission approved BZX Rule 14.11(e)(4) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[5] All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

[6] *See* draft Registration Statement on Form S–1, dated December 30, 2020 submitted to the Commission by the Sponsor on behalf of the Trust. The descriptions of the Trust, the Shares, and the Benchmark contained herein are based, in part, on information in the Registration Statement. The Registration Statement is not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

[7] For additional information about bitcoin and the Bitcoin Network, *see https://bitcoin.org/en/getting-started; https://www.fidelitydigitalassets.com/articles/addressing-bitcoin-criticisms;* and *https://www.vaneck.com/education/investment-ideas/investing-in-bitcoin-and-digital-assets/.*

[8] *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018). This proposal was subsequently disapproved by the Commission. *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the ''Winklevoss Order'').

[9] Digital assets that are securities under U.S. law are referred to throughout this proposal as ''digital asset securities.'' All other digital assets, including bitcoin, are referred to interchangeably as ''cryptocurrencies'' or ''virtual currencies.'' The term ''digital assets'' refers to all digital assets, including both digital asset securities and cryptocurrencies, together.

[10] *See* ''In the Matter of Coinflip, Inc.'' (''Coinflip'') (CFTC Docket 15–29 (September 17, 2015)) (order instituting proceedings pursuant to Sections 6(c) and 6(d) of the CEA, making findings and imposing remedial sanctions), in which the CFTC stated:

''Section 1a(9) of the CEA defines 'commodity' to include, among other things, 'all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.' 7 U.S.C. 1a(9). The definition of a 'commodity' is broad. *See, e.g., Board of Trade of City of Chicago* v. *SEC,* 677 F. 2d 1137, 1142 (7th Cir. 1982). Bitcoin and other virtual currencies are encompassed in the definition and properly defined as commodities.''

[11] A list of virtual currency businesses that are entities regulated by the NYDFS is available on the NYDFS website. *See https://www.dfs.ny.gov/apps_and_licensing/virtual_currency_businesses/regulated_entities.*

[12] Data as of March 31, 2016 according to publicly available filings. *See* Bitcoin Investment Trust Form S–1, dated May 27, 2016, available: *https://www.sec.gov/Archives/edgar/data/1588489/000095012316017801/filename1.htm.*

[13] *See* letter from Dalia Blass, Director, Division of Investment Management, U.S. Securities and Exchange Commission to Paul Schott Stevens, President & CEO, Investment Company Institute and Timothy W. Cameron, Asset Management Group—Head, Securities Industry and Financial Markets Association (January 18, 2018), *available at https://www.sec.gov/divisions/investment/noaction/2018/cryptocurrency-011818.htm.*

[14] *See* Prospectus supplement filed pursuant to Rule 424(b)(1) for INX Tokens (Registration No. 333–233363), *available at: https://www.sec.gov/Archives/edgar/data/1725882/000121390020023202/ea125858-424b1_inxlimited.htm.*

[15] *See* Prospectus filed by Stone Ridge Trust VI on behalf of NYDIG Bitcoin Strategy Fund Registration, *available at: https://www.sec.gov/Archives/edgar/data/1764894/000119312519309942/d693146d497.htm.*

[16] *See* Securities Exchange Act Release No. 90788, 86 FR 11627 (February 26, 2021) (File Number S7–25–20) (Custody of Digital Asset Securities by Special Purpose Broker-Dealers).

[17] *See* letter from Elizabeth Baird, Deputy Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Kris Dailey, Vice President, Risk Oversight & Operational Regulation, Financial Industry Regulatory Authority (September 25, 2020), *available at: https://www.sec.gov/divisions/marketreg/mr-noaction/2020/finra-ats-role-in-settlement-of-digital-asset-security-trades-09252020.pdf.*

registration requirement to an entity seeking to establish a securities clearance and settlement system based on distributed ledger technology,[18] and multiple transfer agents who provide services for digital asset securities registered with the Commission.[19]

Outside the Commission's purview, the regulatory landscape has changed significantly since 2016, and cryptocurrency markets have grown and evolved as well. The market for bitcoin is approximately 100 times larger, having recently reached a market cap of over $1 trillion. As of February 27, 2021, bitcoin's market cap is greater than companies such as Facebook, Inc., Berkshire Hathaway Inc., and JP Morgan Chase & Co. CFTC regulated bitcoin futures represented approximately $28 billion in notional trading volume on Chicago Mercantile Exchange (''CME'') (''Bitcoin Futures'') in December 2020 compared to $737 million, $1.4 billion, and $3.9 billion in total trading in December 2017, December 2018, and December 2019, respectively. Bitcoin Futures traded over $1.2 billion per day in December 2020 and represented $1.6 billion in open interest compared to $115 million in December 2019, which the Exchange believes represents a regulated market of significant size, as further discussed below.[20] The CFTC has exercised its regulatory jurisdiction in bringing a number of enforcement actions related to bitcoin and against trading platforms that offer cryptocurrency trading.[21] The U.S. Office of the Comptroller of the Currency (the ''OCC'') has made clear that federally-chartered banks are able to provide custody services for cryptocurrencies and other digital assets.[22] The OCC recently granted conditional approval of two charter conversions by state-chartered trust companies to national banks, both of which provide cryptocurrency custody services.[23] NYDFS has granted no fewer than twenty-five BitLicenses, including to established public payment companies like PayPal Holdings, Inc. and Square, Inc., and limited purpose trust charters to entities providing cryptocurrency custody services, including the Trust's Custodian. The U.S. Treasury Financial Crimes Enforcement Network (''FinCEN'') has released extensive guidance regarding the applicability of the Bank Secrecy Act (''BSA'') and implementing regulations to virtual currency businesses,[24] and has proposed rules imposing requirements on entities subject to the BSA that are specific to the technological context of virtual currencies.[25] In addition, the Treasury's Office of Foreign Assets Control (''OFAC'') has brought enforcement actions over apparent violations of the sanctions laws in connection with the provision of wallet management services for digital assets.[26]

In addition to the regulatory developments laid out above, more traditional financial market participants appear to be embracing cryptocurrency: Large insurance companies,[27] asset managers,[28] university endowments,[29] pension funds,[30] and even historically bitcoin skeptical fund managers [31] are allocating to bitcoin. The largest over-the-counter bitcoin fund previously filed a Form 10 registration statement, which the Staff of the Commission reviewed and which took effect automatically, and is now a reporting company.[32] Established companies like Tesla, Inc.,[33] MicroStrategy Incorporated,[34] and Square, Inc.,[35] among others, have recently announced substantial investments in bitcoin in amounts as large as $1.5 billion (Tesla) and $425 million (MicroStrategy). Suffice to say, bitcoin is on its way to gaining mainstream usage.

Despite these developments, access for U.S. retail investors to gain exposure to bitcoin via a transparent and regulated exchange-traded vehicle remains limited. Instead current options

[18] *See* letter from Jeffrey S. Mooney, Associate Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Charles G. Cascarilla & Daniel M. Burstein, Paxos Trust Company, LLC (October 28, 2019), *available at: https://www.sec.gov/divisions/marketreg/mr-noaction/2019/paxos-trust-company-102819-17a.pdf.*

[19] *See, e.g.,* Form TA–1/A filed by Tokensoft Transfer Agent LLC (CIK: 0001794142) on January 8, 2021, *available at: https://www.sec.gov/Archives/edgar/data/1794142/000179414219000001/xslFTA1X01/primary_doc.xml.*

[20] All statistics and charts included in this proposal are sourced from *https://www.cmegroup.com/trading/bitcoin-futures.html.*

[21] The CFTC's annual report for Fiscal Year 2020 (which ended on September 30, 2020) noted that the CFTC ''continued to aggressively prosecute misconduct involving digital assets that fit within the CEA's definition of commodity'' and ''brought a record setting seven cases involving digital assets.'' *See* CFTC FY2020 Division of Enforcement Annual Report, *available at: https://www.cftc.gov/media/5321/DOE_FY2020_AnnualReport_120120/download.* Additionally, the CFTC filed on October 1, 2020, a civil enforcement action against the owner/operators of the BitMEX trading platform, which was one of the largest bitcoin derivative exchanges. *See* CFTC Release No. 8270–20 (October 1, 2020) *available at: https://www.cftc.gov/PressRoom/PressReleases/8270-20.*

[22] *See* OCC News Release 2021–2 (January 4, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-2.html.*

[23] *See* OCC News Release 2021–6 (January 13, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-6.html* and OCC News Release 2021–19 (February 5, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-19.html.*

[24] *See* FinCEN Guidance FIN–2019–G001 (May 9, 2019) (Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies) *available at: https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf.*

[25] *See* U.S. Department of the Treasury Press Release: ''The Financial Crimes Enforcement Network Proposes Rule Aimed at Closing Anti-Money Laundering Regulatory Gaps for Certain Convertible Virtual Currency and Digital Asset Transactions'' (December 18, 2020), *available at: https://home.treasury.gov/news/press-releases/sm1216.*

[26] *See* U.S. Department of the Treasury Enforcement Release: ''OFAC Enters Into $98,830 Settlement with BitGo, Inc. for Apparent Violations of Multiple Sanctions Programs Related to Digital Currency Transactions'' (December 30, 2020) *available at: https://home.treasury.gov/system/files/126/20201230_bitgo.pdf.*

[27] On December 10, 2020, Massachusetts Mutual Life Insurance Company (MassMutual) announced that it had purchased $100 million in bitcoin for its general investment account. *See* MassMutual Press Release ''Institutional Bitcoin provider NYDIG announces minority stake purchase by MassMutual'' (December 10, 2020) *available at: https://www.massmutual.com/about-us/news-and-press-releases/press-releases/2020/12/institutional-bitcoin-provider-nydig-announces-minority-stake-purchase-by-massmutual.*

[28] *See e.g.,* ''BlackRock's Rick Rieder says the world's largest asset manager has 'started to dabble' in bitcoin'' (February 17, 2021) *available at: https://www.cnbc.com/2021/02/17/blackrock-has-started-to-dabble-in-bitcoin-says-rick-rieder.html* and ''Guggenheim's Scott Minerd Says Bitcoin Should Be Worth $400,000'' (December 16, 2020) *available at: https://www.bloomberg.com/news/articles/2020-12-16/guggenheim-s-scott-minerd-says-bitcoin-should-be-worth-400-000.*

[29] *See e.g.,* ''Harvard and Yale Endowments Among Those Reportedly Buying Crypto'' (January 25, 2021) *available at: https://www.bloomberg.com/news/articles/2021-01-26/harvard-and-yale-endowments-among-those-reportedly-buying-crypto.*

[30] *See e.g.,* ''Virginia Police Department Reveals Why its Pension Fund is Betting on Bitcoin'' (February 14, 2019) *available at: https://finance.yahoo.com/news/virginia-police-department-reveals-why-194558505.html.*

[31] *See e.g.,* ''Bridgewater: Our Thoughts on Bitcoin'' (January 28, 2021) *available at: https://www.bridgewater.com/research-and-insights/our-thoughts-on-bitcoin* and ''Paul Tudor Jones says he likes bitcoin even more now, rally still in the 'first inning'" (October 22, 2020) *available at: https://www.cnbc.com/2020/10/22/-paul-tudor-jones-says-he-likes-bitcoin-even-more-now-rally-still-in-the-first-inning.html.*

[32] *See* Letter from Division of Corporation Finance, Office of Real Estate & Construction to Barry E. Silbert, Chief Executive Officer, Grayscale Bitcoin Trust (January 31, 2020) *https://www.sec.gov/Archives/edgar/data/1588489/000000000020000953/filename1.pdf.*

[33] *See* Form 10–K submitted by Tesla, Inc. for the fiscal year ended December 31, 2020 at 23: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm.*

[34] *See* Form 10–Q submitted by MicroStrategy Incorporated for the quarterly period ended September 30, 2020 at 8: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1050446/000156459020047995/mstr-10q_20200930.htm.*

[35] *See* Form 10–Q submitted by Square, Inc. for the quarterly period ended September 30, 2020 at 51: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1512673/000151267320000012/sq-20200930.htm.*

include: (i) Paying a potentially extremely high premium (and high management fees) to buy over-the-counter bitcoin funds (''OTC Bitcoin Funds''), to the advantage of more sophisticated investors that are able to create shares at net asset value (''NAV'') directly with the issuing trust; (ii) facing the technical risk, complexity and generally high fees associated with buying spot bitcoin; or (iii) purchasing shares of operating companies that they believe will provide proxy exposure to bitcoin with limited disclosure about the associated risks. Meanwhile, investors in many other countries, including Canada,[36] are able to use more traditional exchange listed and traded products to gain exposure to bitcoin, disadvantaging U.S. investors and leaving them with more risky means of getting bitcoin exposure.[37]

OTC Bitcoin Funds and Investor Protection

Over the past year, U.S. investor exposure to bitcoin through OTC Bitcoin Funds has grown into the tens of billions of dollars. With that growth, so too has grown the potential risk to U.S. investors. As described below, premium volatility, high fees, insufficient disclosures, and technical hurdles are putting U.S. investor money at risk on a daily basis that could potentially be eliminated through access to a bitcoin ETP. The Exchange understands the Commission's previous focus on potential manipulation of a bitcoin ETP in prior disapproval orders, but now believes that such concerns have been sufficiently mitigated and that the growing and quantifiable investor protection concerns should be the central consideration as the Commission reviews this proposal. As such, the Exchange believes that approving this proposal (and comparable proposals submitted hereafter) provides the Commission with the opportunity to allow U.S. investors with access to bitcoin in a regulated and transparent exchange-traded vehicle that would act to limit risk to U.S. investors by: (i) Reducing premium volatility; (ii) reducing management fees through meaningful competition; (iii) reducing risks associated with investing in operating companies that are imperfect proxies for bitcoin exposure; and (iv) providing an alternative to custodying spot bitcoin.

(i) OTC Bitcoin Funds and Premium Volatility

OTC Bitcoin Funds are generally designed to provide exposure to bitcoin in a manner similar to the Shares. However, unlike the Shares, OTC Bitcoin Funds are unable to freely offer creation and redemption in a way that incentivizes market participants to keep their shares trading in line with their NAV[38] and, as such, frequently trade at a price that is out of line with the value of their assets held. Historically, OTC Bitcoin Funds have traded at a significant premium to NAV.[39]

Trading at a premium (or potentially a discount) is not unique to OTC Bitcoin Funds and is not in itself problematic, however the AUM for OTC Bitcoin Funds has grown significantly in the past year. In fact, the largest OTC Bitcoin Fund has grown to $35.0 billion in AUM[40] and has historically traded at a premium of between roughly five and forty percent, though it has seen premiums at times above one hundred percent.[41] As of February 17, 2021, the premium was approximately 5%, representing around $1.4 billion in market value in excess of the bitcoin actually held by the fund. If premium numbers move back to the middle of that range to 20% (which historically could occur at any time and overnight), there would be $7 billion worth of shares outstanding above the value of the bitcoin actually held by the fund and if the premium returns to the upper end of its typical range, that number increases to $14 billion. These numbers are only associated with a single OTC Bitcoin Fund—as more and more OTC Bitcoin Funds come to market and more investor assets flood into them to get access to bitcoin exposure, the potential dollars at risk will only increase.

This raises significant investor protection issues in several ways. First, the most obvious issue is that investors are buying shares of a fund for a price in excess of the per share value of the fund's underlying assets. Even operating within the normal premium range, it's possible for an investor to buy shares of an OTC Bitcoin Fund only to have those shares quickly lose 10% or more in dollar value excluding any movement of the price of bitcoin. That is to say—the price of bitcoin could have stayed exactly the same from market close on one day to market open the next, yet the value of the shares held by the investor decreased only because of the fluctuation of the premium. As more investment vehicles, including mutual funds and ETFs, seek to gain exposure to bitcoin, the easiest option for a buy and hold strategy is often an OTC Bitcoin Fund, meaning that even investors that do not directly buy OTC Bitcoin Funds can be disadvantaged by extreme premiums (or discounts) and premium volatility.

The second issue is related to the first and explains how the premium in OTC Bitcoin Funds essentially creates a direct payment from retail investors to more sophisticated investors. Generally speaking, only accredited investors are able to create shares with the issuing trust, which means that they are able to buy shares directly from the trust at NAV (by either delivering cash or bitcoin) without having to pay the premium. While they are forced to hold the shares for at least six months before selling, in reality they can immediately hedge any exposure to the price of bitcoin and simply wait six months to sell the shares to a retail investor and collect the premium.

[36] The Exchange notes that the Purpose Bitcoin ETF, a retail physical bitcoin ETP recently launched in Canada, reportedly reached $421.8 million in assets under management (''AUM'') in two days, demonstrating the demand for a North American market listed bitcoin exchange-traded product (''ETP''). The Purpose Bitcoin ETF also offers a class of units that is U.S. dollar denominated, which could appeal to U.S. investors. Without an approved bitcoin ETP in the U.S. as a viable alternative, U.S. investors could seek to purchase these shares in order to get access to bitcoin exposure. Given the separate regulatory regime and the potential difficulties associated with any international litigation, such an arrangement would create more risk exposure for U.S. investors than they would otherwise have with a U.S. exchange listed ETP.

[37] The Exchange notes that securities regulators in a number of other countries have either approved or otherwise allowed the listing and trading of bitcoin ETPs. Specifically, these funds include the Purpose Bitcoin ETF, Bitcoin ETF, VanEck Vectors Bitcoin ETN, WisdomTree Bitcoin ETP, Bitcoin Tracker One, BTCetc bitcoin ETP, Amun Bitcoin ETP, Amun Bitcoin Suisse ETP, 21Shares Short Bitcoin ETP, CoinShares Physical Bitcoin ETP.

[38] Because OTC Bitcoin Funds are not listed on an exchange, they are also not subject to the same transparency and regulatory oversight by a listing exchange as the Shares would be. In the case of the Trust, the existence of a surveillance-sharing agreement between the Exchange and the Bitcoin Futures market results in increased investor protections compared to OTC Bitcoin Funds.

[39] The inability to trade in line with NAV may at some point result in OTC Bitcoin Funds trading at a discount to their NAV. While that has not historically been the case, such a scenario would give rise to nearly identical potential issues related to trading at a premium as described below.

[40] As of February 19, 2021. Compare to an AUM of approximately $2.6 billion on February 26, 2020, the date on which the Commission issued the most recent disapproval order for a bitcoin ETP. *See* Securities Exchange Act Release No. 88284 (February 26, 2020), 85 FR 12595 (March 3, 2020) (SR–NYSEArca–2019–39) (the ''Wilshire Phoenix Disapproval''). While the price of one bitcoin has increased approximately 400% in the intervening period, the total AUM has increased by approximately 1240%, indicating that the increase in AUM was created beyond just price appreciation in bitcoin.

[41] *See* ''Traders Piling Into Overvalued Crypto Funds Risk a Painful Exit'' (February 4, 2021) *available at: https://www.bloomberg.com/news/articles/2021-02-04/bitcoin-one-big-risk-when-investing-in-crypto-funds.*

As noted above, the existence of the premium and premium collection opportunity is not unique to OTC Bitcoin Funds and does not in itself warrant the approval of an exchange traded product.[42] What makes this situation unique is that such a premium can exist in a product with $35 billion in assets under management,[43] that billions of retail investor dollars are constantly under threat of premium volatility,[44] and that premium volatility is generally captured by more sophisticated investors on a riskless basis. The Exchange understands the Commission's focus on potential manipulation of a bitcoin ETP in prior disapproval orders, but now believes that current circumstances warrant that this direct, quantifiable investor protection issue should be the central consideration as the Commission determines whether to approve this proposal.

(ii) Spot and Proxy Exposure

Exposure to bitcoin through an ETP also presents certain advantages for retail investors compared to buying spot bitcoin directly. The most notable advantage is the use of the Custodian to custody the Trust's bitcoin assets. The Sponsor has carefully selected the Custodian, a trust company chartered and regulated by NYDFS, due to its manner of holding the Trust's bitcoin. This includes, among others, the use of ''cold'' (offline) storage to hold private keys and the employment by the Custodian of a certain degree of cybersecurity measures and operational best practices. By contrast, an individual retail investor holding bitcoin through a cryptocurrency exchange lacks these protections. Typically, retail exchanges hold most, if not all, retail investors' bitcoin in ''hot'' (internet-connected) storage and do not make any commitments to indemnify retail investors or to observe any particular cybersecurity standard. Meanwhile, a retail investor holding spot bitcoin directly in a self-hosted wallet may suffer from inexperience in private key management (*e.g.,* insufficient password protection, lost key, etc.), which could cause them to lose some or all of their bitcoin holdings. In the Custodian, the Trust has engaged a regulated and licensed entity highly experienced in bitcoin custody, with dedicated, trained employees and procedures to manage the private keys to the Trust's bitcoin, and which is accountable for failures. Thus, with respect to custody of the Trust's bitcoin assets, the Trust presents advantages from an investment protection standpoint for retail investors compared to owning spot bitcoin directly.

Finally, as described in the Background section above, recently a number of operating companies engaged in unrelated businesses—such as Tesla (a car manufacturer) and MicroStrategy (an enterprise software company)—have announced investments as large as $1.5 billion in bitcoin.[45] Without access to bitcoin exchange-traded products, retail investors seeking investment exposure to bitcoin may end up purchasing shares in these companies in order to gain the exposure to bitcoin that they seek.[46] In fact, mainstream financial news networks have written a number of articles providing investors with guidance for obtaining bitcoin exposure through publicly traded companies (such as MicroStrategy, Tesla, and bitcoin mining companies, among others) instead of dealing with the complications associated with buying spot bitcoin in the absence of a bitcoin ETP.[47] Such operating companies, however, are imperfect bitcoin proxies and provide investors with partial bitcoin exposure paired with a host of additional risks associated with whichever operating company they decide to purchase. Additionally, the disclosures provided by the aforementioned operating companies with respect to risks relating to their bitcoin holdings are generally substantially smaller than the registration statement of a bitcoin ETP, including the Registration Statement, typically amounting to a few sentences of narrative description and a handful of risk factors.[48] In other words, investors seeking bitcoin exposure through publicly traded companies are gaining only partial exposure to bitcoin and are not fully benefitting from the risk disclosures and associated investor protections that come from the securities registration process.

Bitcoin Futures

CME began offering trading in Bitcoin Futures in 2017. Each contract represents five bitcoin and is based on the CME CF Bitcoin Reference Rate.[49] The contracts trade and settle like other cash-settled commodity futures contracts. Nearly every measurable metric related to Bitcoin Futures has trended consistently up since launch and/or accelerated upward in the past year. For example, there was approximately $28 billion in trading in Bitcoin Futures in December 2020 compared to $737 million, $1.4 billion, and $3.9 billion in total trading in December 2017, December 2018, and December 2019, respectively. Bitcoin Futures traded over $1.2 billion per day on the CME in December 2020 and represented $1.6 billion in open interest compared to $115 million in December 2019. This general upward trend in trading volume and open interest is captured in the following chart.

[42] The Exchange notes, for example, that similar premiums and premium volatility exist for other non-bitcoin cryptocurrency related over-the-counter funds, but that the size and investor interest in those funds does not give rise to the same investor protection concerns that exist for OTC Bitcoin Funds.

[43] At $35 billion in AUM, the largest OTC Bitcoin Fund would be the 32nd largest out of roughly 2,400 U.S. listed ETPs.

[44] The Exchange notes that in two recent incidents, the premium dropped from 28.28% to 12.29% from the close on 3/19/20 to the close on 3/20/20 and from 38.40% to 21.05% from the close on 5/13/19 to the close on 5/14/19. Similarly, over the period of 12/21/20 to 1/21/20, the premium went from 40.18% to 2.79%. While the price of bitcoin appreciated significantly during this period and NAV per share increased by 41.25%, the price per share increased by only 3.58%.

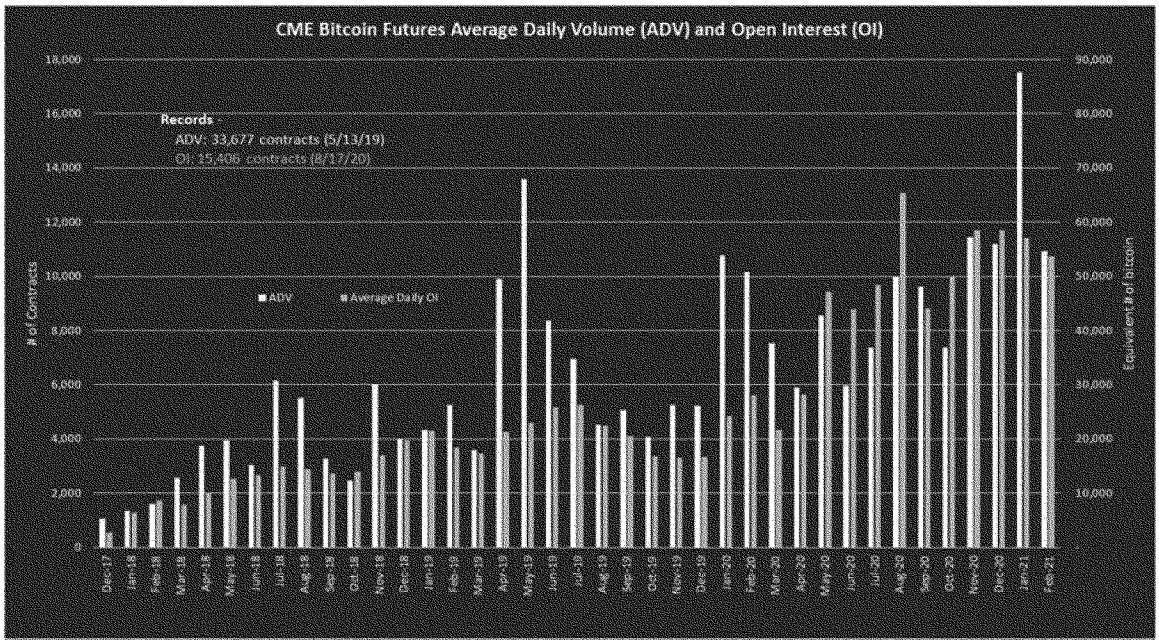
[45] It's been announced that MicroStrategy is currently contemplating a $600 million convertible note offering for the purpose of acquiring bitcoin. *See: https://www.cnbc.com/2021/02/16/microstrategy-shares-rise-after-revealing-plans-to-buy-more-bitcoin.html.*

[46] In August 2017, the Commission's Office of Investor Education and Advocacy warned investors about situations where companies were publicly announcing events relating to digital coins or tokens in an effort to affect the price of the company's publicly traded common stock. *See https://www.sec.gov/oiea/investor-alerts-and-bulletins/ia_icorelatedclaims.*

[47] *See e.g.,* ''7 public companies with exposure to bitcoin'' (February 8, 2021) available at: *https://finance.yahoo.com/news/7-public-companies-with-exposure-to-bitcoin-154201525.html*; and ''Want to get in the crypto trade without holding bitcoin yourself? Here are some investing ideas'' (February 19, 2021) *available at: https://www.cnbc.com/2021/02/19/ways-to-invest-in-bitcoin-without-holding-the-cryptocurrency-yourself-.html.*

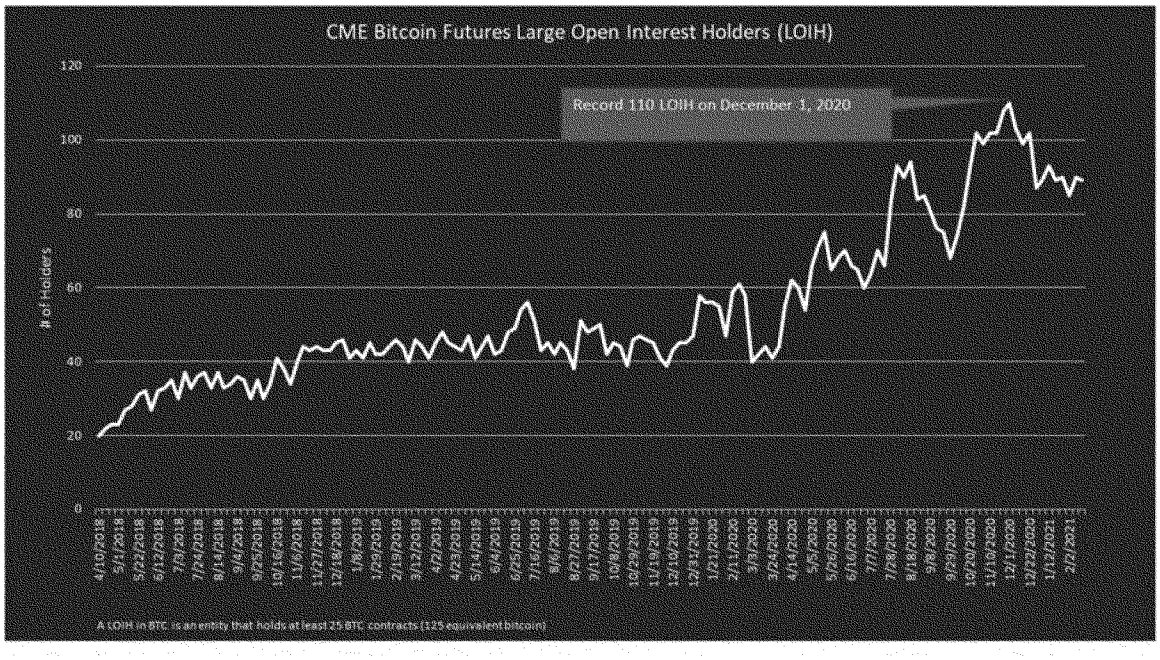
[48] *See, e.g.,* Tesla 10–K for the year ended December 31, 2020, which mentions bitcoin just nine times: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm.*

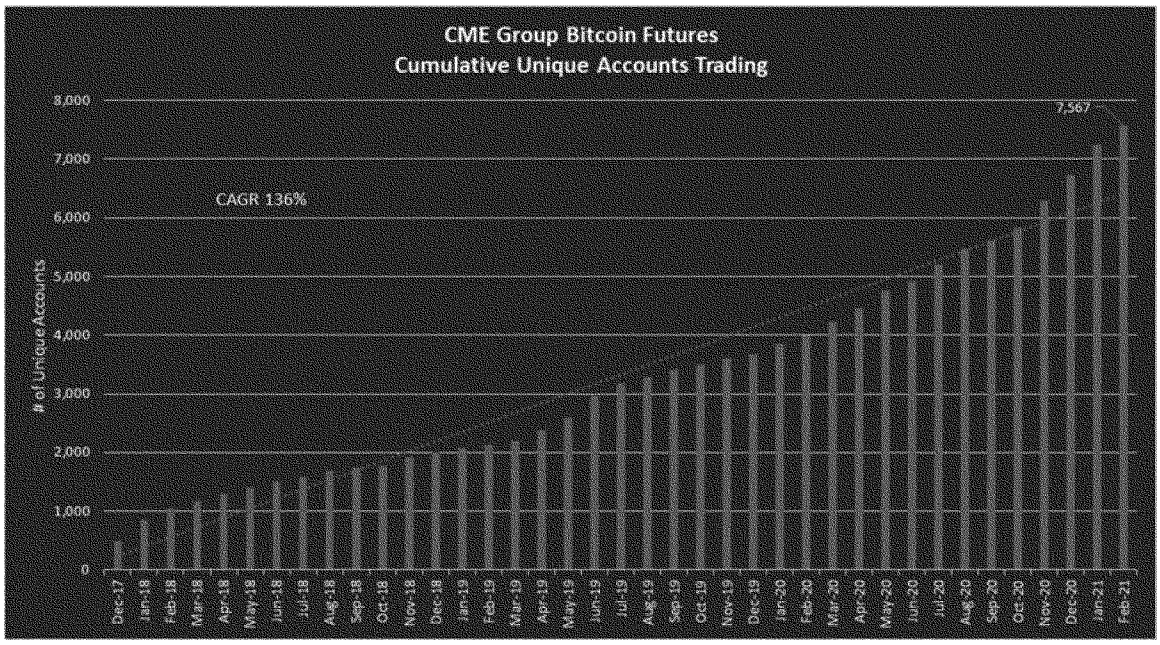
[49] According to CME, the CME CF Bitcoin Reference Rate aggregates the trade flow of major bitcoin spot exchanges during a specific calculation window into a once-a-day reference rate of the U.S. dollar price of bitcoin. Calculation rules are geared toward maximum transparency and real-time replicability in underlying spot markets, including Bitstamp, Coinbase, Gemini, itBit, and Kraken. For additional information, refer to *https://www.cmegroup.com/trading/cryptocurrency-indices/cf-bitcoin-reference-rate.html?redirect=/trading/cf-bitcoin-reference-rate.html.*




Similarly, the number of large open interest holders [50] has continued to increase even as the price of bitcoin has risen, as have the number of unique accounts trading Bitcoin Futures.

[50] A large open interest holder in Bitcoin Futures is an entity that holds at least 25 contracts, which is the equivalent of 125 bitcoin. At a price of approximately $30,000 per bitcoin on 12/31/20, more than 80 firms had outstanding positions of greater than $3.8 million in Bitcoin Futures.




The Sponsor further believes that academic research corroborates the overall trend outlined above and supports the thesis that the Bitcoin Futures pricing leads the spot market and, thus, a person attempting to manipulate the Shares would also have to trade on that market to manipulate the ETP. Specifically, the Sponsor believes that such research indicates that bitcoin futures lead the bitcoin spot market in price formation.[51]

Section 6(b)(5) and the Applicable Standards

The Commission has approved numerous series of Trust Issued Receipts,[52] including Commodity-Based Trust Shares,[53] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) The requirement that a national securities exchange's rules are designed to prevent fraudulent and

[51] *See* Hu, Y., Hou, Y. and Oxley, L. (2019). ''What role do futures markets play in Bitcoin pricing? Causality, cointegration and price discovery from a time-varying perspective'' (available at: *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7481826/*). This academic research paper concludes that ''There exist no episodes where the Bitcoin spot markets dominates the price discovery processes with regard to Bitcoin futures. This points to a conclusion that the price formation originates solely in the Bitcoin futures market. We can, therefore, conclude that the Bitcoin futures markets dominate the dynamic price discovery process based upon time-varying information share measures. Overall, price discovery seems to occur in the Bitcoin futures markets rather than the underlying spot market based upon a time-varying perspective.''

[52] *See* Exchange Rule 14.11(f).

[53] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

manipulative acts and practices;[54] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that it has sufficiently demonstrated that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues that would be resolved by approving this proposal. Specifically, the Exchange lays out below why it believes that the significant increase in trading volume in Bitcoin Futures, the growth of liquidity at the inside in the spot market for bitcoin, and certain features of the Shares and the Benchmark mitigate potential manipulation concerns to the point that the investor protection issues that have arisen from the rapid growth of over-the-counter bitcoin funds since the Commission last reviewed an exchange proposal to list and trade a bitcoin ETP, including premium volatility and management fees, should be the central consideration as the Commission determines whether to approve this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place[55] with a regulated market of significant size. Both the Exchange and CME are members of the Intermarket Surveillance Group (the ''ISG'').[56] The only remaining issue to be addressed is whether the Bitcoin Futures market constitutes a market of significant size, which the Exchange believes that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) There is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[57]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[58]

(a) Manipulation of the ETP

The significant growth in Bitcoin Futures across each of trading volumes, open interest, large open interest holders, and total market participants since the Wilshire Phoenix Disapproval was issued are reflective of that market's growing influence on the spot price, which according to the academic research cited above, was already leading the spot price in 2018 and 2019. Where Bitcoin Futures lead the price in the spot market such that a potential manipulator of the bitcoin spot market (beyond just the constituents of the Benchmark[59]) would have to participate in the Bitcoin Futures market, it follows that a potential manipulator of the Shares would similarly have to transact in the Bitcoin Futures market because the Benchmark is based on spot prices. Further, the Trust only allows for in-kind creation and redemption, which, as further described below, reduces the potential for manipulation of the Shares through manipulation of the Benchmark or any of its individual constituents, again emphasizing that a potential manipulator of the Shares would have to manipulate the entirety of the bitcoin spot market, which is led by the Bitcoin Futures market. As such, the Exchange believes that part (a) of the significant market test outlined above is satisfied and that common membership in ISG between the Exchange and CME would assist the listing exchange in detecting and deterring misconduct in the Shares.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

The Exchange also believes that trading in the Shares would not be the predominant force on prices in the Bitcoin Futures market (or spot market) for a number of reasons, including the significant volume in the Bitcoin Futures market, the size of bitcoin's market cap (approximately $1 trillion), and the significant liquidity available in the spot market. In addition to the Bitcoin Futures market data points cited above, the spot market for bitcoin is also very liquid. According to data from CoinRoutes from February 2021, the cost to buy or sell $5 million worth of bitcoin averages roughly 10 basis points with a market impact of 30 basis points.[60] For a $10 million market order,

[54] As the Exchange has stated in a number of other public documents, it continues to believe that bitcoin is resistant to price manipulation and that ''other means to prevent fraudulent and manipulative acts and practices'' exist to justify dispensing with the requisite surveillance sharing agreement. The geographically diverse and continuous nature of bitcoin trading render it difficult and prohibitively costly to manipulate the price of bitcoin. The fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity challenging. To the extent that there are bitcoin exchanges engaged in or allowing wash trading or other activity intended to manipulate the price of bitcoin on other markets, such pricing does not normally impact prices on other exchange because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin price on any single venue would require manipulation of the global bitcoin price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular bitcoin exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

[55] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance- sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.'' The Commission has historically held that joint membership in ISG constitutes such a surveillance sharing agreement. *See* Wilshire Phoenix Disapproval.

[56] For a list of the current members and affiliate members of ISG, *see www.isgportal.com*.

[57] *See* Wilshire Phoenix Disapproval.

[58] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a ''cannot be manipulated'' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met. *Id.* at 37582.

[59] As further described below, the ''Benchmark'' for the Fund is the MVIS® CryptoCompare Bitcoin Benchmark Rate. The current exchange composition of the Benchmark is Bitstamp, Coinbase, Gemini, itBit and Kraken, which are the same constituents that compose the CME CF Bitcoin Reference Rate.

[60] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase

the cost to buy or sell is roughly 20 basis points with a market impact of 50 basis points. Stated another way, a market participant could enter a market buy or sell order for $10 million of bitcoin and only move the market 0.5%. More strategic purchases or sales (such as using limit orders and executing through OTC bitcoin trade desks) would likely have less obvious impact on the market—which is consistent with MicroStrategy, Tesla, and Square being able to collectively purchase billions of dollars in bitcoin. As such, the combination of Bitcoin Futures leading price discovery, the overall size of the bitcoin market, and the ability for market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact will help prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or Bitcoin Futures markets, satisfying part (b) of the test outlined above.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Exchange believes that such conditions are present. Specifically, the significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly and has grown more expensive over the past year. In January 2020, for example, the cost to buy or sell $5 million worth of bitcoin averaged roughly 30 basis points (compared to 10 basis points in 2/2021) with a market impact of 50 basis points (compared to 30 basis points in 2/2021).[61] For a $10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in 2/2021) with a market impact of 80 basis points (compared to 50 basis points in 2/2021). As the liquidity in the bitcoin spot market increases, it follows that the impact of $5 million and $10 million orders will continue to decrease the overall impact in spot price.

Additionally, offering only in-kind creation and redemption will provide unique protections against potential attempts to manipulate the Shares. While the Sponsor believes that the Benchmark which it uses to value the Trust's bitcoin is itself resistant to manipulation based on the methodology further described below, the fact that creations and redemptions are only available in-kind makes the manipulability of the Benchmark significantly less important. Specifically, because the Trust will not accept cash to buy bitcoin in order to create new shares or, barring a forced redemption of the Trust or under other extraordinary circumstances, be forced to sell bitcoin to pay cash for redeemed shares, the price that the Sponsor uses to value the Trust's bitcoin is not particularly important.[62] When authorized participants are creating with the Trust, they need to deliver a certain number of bitcoin per share (regardless of the valuation used) and when they're redeeming, they can similarly expect to receive a certain number of bitcoin per share. As such, even if the price used to value the Trust's bitcoin is manipulated (which the Sponsor believes that its methodology is resistant to), the ratio of bitcoin per Share does not change and the Trust will either accept (for creations) or distribute (for redemptions) the same number of bitcoin regardless of the value. This not only mitigates the risk associated with potential manipulation, but also discourages and disincentivizes manipulation of the Benchmark because there is little financial incentive to do so.

VanEck Bitcoin Trust

Delaware Trust Company is the trustee (''Trustee''). The State Street Bank and Trust Company will be the administrator (''Administrator'') and transfer agent (''Transfer Agent''). Van Eck Securities Corporation will be the marketing agent (''Marketing Agent'') in connection with the creation and redemption of ''Baskets'' of Shares. Van Eck Securities Corporation (''VanEck'') provides assistance in the marketing of the Shares. A third-party regulated custodian (the ''Custodian'') will be responsible for custody of the Trust's bitcoin.[63]

According to the Registration Statement, each Share will represent a fractional undivided beneficial interest in the Trust's net assets. The Trust's assets will consist of bitcoin held by the Custodian on behalf of the Trust. The Trust generally does not intend to hold cash or cash equivalents. However, there may be situations where the Trust will unexpectedly hold cash on a temporary basis.

According to the Registration Statement, the Trust is neither an investment company registered under the Investment Company Act of 1940, as amended,[64] nor a commodity pool for purposes of the Commodity Exchange Act (''CEA''), and neither the Trust nor the Sponsor is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the Shares.

When the Trust sells or redeems its Shares, it will do so in ''in-kind'' transactions in blocks of 50,000 Shares (a ''Creation Basket'') at the Trust's NAV. Authorized participants will deliver, or facilitate the delivery of, bitcoin to the Trust's account with the Custodian in exchange for Shares when they purchase Shares, and the Trust, through the Bitcoin Custodian, will deliver bitcoin to such authorized participants when they redeem Shares with the Trust. Authorized participants may then offer Shares to the public at prices that depend on various factors, including the supply and demand for Shares, the value of the Trust's assets, and market conditions at the time of a transaction. Shareholders who buy or sell Shares during the day from their broker may do so at a premium or discount relative to the NAV of the Shares of the Trust.

Investment Objective

According to the Registration Statement and as further described below, the investment objective of the Trust is for the Shares to reflect the performance of the MVIS® CryptoCompare Bitcoin Benchmark Rate less the expenses of the Trust's operations. In seeking to achieve its investment objective, the Trust will hold bitcoin and will value its Shares daily based on the reported MVIS® CryptoCompare Bitcoin Benchmark Rate and process all creations and redemptions in-kind in transactions with authorized participants. The Trust is not actively managed.

The Benchmark

As described in the Registration Statement, the Fund will use the Benchmark to calculate the Trust's NAV. The Benchmark is designed to be a robust price for bitcoin in USD and

Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[61] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[62] While the Benchmark will not be particularly important for the creation and redemption process, it will be used for calculating fees.

[63] The Exchange notes that the Sponsor is finalizing negotiations with the Custodian and it will submit an amendment to this proposal upon execution of an agreement with the Custodian.

[64] 15 U.S.C. 80a–1.

there is no component other than bitcoin in the index. The underlying exchanges are sourced from the industry leading CryptoCompare Exchange Benchmark review report. CryptoCompare Exchange Benchmark was established in 2019 as a tool designed to bring clarity to the digital asset exchange sector by providing a framework for assessing risk and in turn bringing transparency and accountability to a complex and rapidly evolving market.[65] The current exchange composition of the Benchmark is Bitstamp, Coinbase, Gemini, itBit and Kraken, which are the same constituents that compose the CME CF Bitcoin Reference Rate.

In calculating the MVIS® CryptoCompare Bitcoin Benchmark Rate, the methodology captures trade prices and sizes from exchanges and examines twenty three-minute periods leading up to 4:00 p.m. EST. It then calculates an equal-weighted average of the volume-weighted median price of these twenty three-minute periods, removing the highest and lowest contributed prices. Using twenty consecutive three-minute segments over a sixty-minute period means malicious actors would need to sustain efforts to manipulate the market over an extended period of time, or would need to replicate efforts multiple times across exchanges, potentially triggering review. This extended period also supports authorized participant activity by capturing volume over a longer time period, rather than forcing authorized participants to mark an individual close or auction. The use of a median price reduces the ability of outlier prices to impact the NAV, as it systematically excludes those prices from the NAV calculation. The use of a volume-weighted median (as opposed to a traditional median) serves as an additional protection against attempts to manipulate the NAV by executing a large number of low-dollar trades, because, any manipulation attempt would have to involve a majority of global spot bitcoin volume in a three-minute window to have any influence on the NAV. As discussed in the Registration Statement, removing the highest and lowest prices further protects against attempts to manipulate the NAV, requiring bad actors to act on multiple exchanges at once to have any ability to influence the price.

Availability of Information

In addition to the price transparency of the Benchmark, the Trust will provide information regarding the Trust's bitcoin holdings as well as additional data regarding the Trust. The Trust will provide an Intraday Indicative Value (''IIV'') per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.

The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the BZX Official Closing Price[66] in relation to the NAV as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours. Information about the Benchmark, including key elements of how the Benchmark is calculated, will be publicly available at *www.mvis-indices.com/.*

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA'').

Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters, as well as the Benchmark. Information relating to trading, including price and volume information, in bitcoin is available from major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin exchanges are 24 hours per day, 365 days per year.

Net Asset Value

NAV means the total assets of the Trust including, but not limited to, all bitcoin and cash, if any, less total liabilities of the Trust, each determined on the basis of generally accepted accounting principles. The Administrator will determine the NAV of the Trust on each day that the Exchange is open for regular trading, as promptly as practical after 4:00 p.m. EST. The NAV of the Trust is the aggregate value of the Trust's assets less its estimated accrued but unpaid liabilities (which include accrued expenses). In determining the Trust's NAV, the Administrator values the bitcoin held by the Trust based on the price set by the MVIS® CryptoCompare Bitcoin Benchmark Rate as of 4:00 p.m. EST. The Administrator also determines the NAV per Share.

Creation and Redemption of Shares

According to the Registration Statement, on any business day, an authorized participant may place an order to create one or more baskets. Purchase orders must be placed by 4:00 p.m. Eastern Time, or the close of regular trading on the Exchange, whichever is earlier. The day on which an order is received is considered the

[65] The CryptoCompare Exchange Benchmark methodology utilizes a combination of qualitative and quantitative metrics to analyze a comprehensive data set across eight categories of evaluation legal/regulation, KYC/transaction risk, data provision, security, team/exchange, asset quality/diversity, market quality and negative events. The CryptoCompare Exchange Benchmark review report assigns a grade to each exchange which helps identify what it believes to be the lowest risk exchanges in the industry. Based on the CryptoCompare Exchange Benchmark, MVIS initially selects the top five exchanges by rank for inclusion in the MVIS® CryptoCompare Bitcoin Benchmark Rate. If an eligible exchange is downgraded by two or more notches in a semi-annual review and is no longer in the top five by rank, it is replaced by the highest ranked non-component exchange. Adjustments to exchange coverage are announced four business days prior to the first business day of each of March and September at 23:00 CET. The MVIS® CryptoCompare Bitcoin Benchmark Rate is rebalanced at 16:00:00 GMT/BST on the last business day of each of February and August.

[66] As defined in Rule 11.23(a)(3), the term ''BZX Official Closing Price'' shall mean the price disseminated to the consolidated tape as the market center closing trade.

purchase order date. The total deposit of bitcoin required is an amount of bitcoin that is in the same proportion to the total assets of the Trust, net of accrued expenses and other liabilities, on the date the order to purchase is properly received, as the number of Shares to be created under the purchase order is in proportion to the total number of Shares outstanding on the date the order is received. Each night, the Sponsor will publish the amount of bitcoin that will be required in exchange for each creation order. The Administrator determines the required deposit for a given day by dividing the number of bitcoin held by the Trust as of the opening of business on that business day, adjusted for the amount of bitcoin constituting estimated accrued but unpaid fees and expenses of the Trust as of the opening of business on that business day, by the quotient of the number of Shares outstanding at the opening of business divided by 50,000. The procedures by which an authorized participant can redeem one or more Creation Baskets mirror the procedures for the creation of Creation Baskets.

Rule 14.11(e)(4)—Commodity-Based Trust Shares

The Shares will be subject to BZX Rule 14.11(e)(4), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust's NAV will be calculated daily and that these values and information about the assets of the Trust will be made available to all market participants at the same time. The Exchange notes that, as defined in Rule 14.11(e)(4)(C)(i), the Shares will be: (a) Issued by a trust that holds a specified commodity[67] deposited with the trust; (b) issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity.

Upon termination of the Trust, the Shares will be removed from listing. The Trustee, Delaware Trust Company, is a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Rule 14.11(e)(4)(E)(iv)(a) and that no change will be made to the trustee without prior notice to and approval of the Exchange. The Exchange also notes that, pursuant to Rule 14.11(e)(4)(F), neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Trust in connection with issuance of Commodity-Based Trust Shares; resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying commodity. Finally, as required in Rule 14.11(e)(4)(G), the Exchange notes that any registered market maker (''Market Maker'') in the Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule. In addition to the existing obligations under Exchange rules regarding the production of books and records (see, *e.g.,* Rule 4.2), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the bitcoin underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(e)(4)(E)(ii), which sets forth circumstances under which trading in the Shares may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BZX will allow trading in the Shares during all trading sessions on the Exchange. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a) the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01 where the price is greater than $1.00 per share or $0.0001 where the price is less than $1.00 per share.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information

[67] For purposes of Rule 14.11(e)(4), the term commodity takes on the definition of the term as provided in the Commodity Exchange Act. As noted above, the CFTC has opined that Bitcoin is a commodity as defined in Section 1a(9) of the Commodity Exchange Act. *See* Coinflip.

regarding trading in the Shares and Bitcoin Futures via ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[68]

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) The procedures for the creation and redemption of Baskets (and that the Shares are not individually redeemable); (ii) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the IIV and the Trust's NAV are disseminated; (iv) the risks involved in trading the Shares outside of Regular Trading Hours[69] when an updated IIV will not be calculated or publicly disseminated; (v) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Shares. Members purchasing the Shares for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[70] in general and Section 6(b)(5) of the Act[71] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission has approved numerous series of Trust Issued Receipts,[72] including Commodity-Based Trust Shares,[73] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) The requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices;[74] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest.

The Exchange believes that the proposal is, in particular, designed to protect investors and the public interest. With the growth of OTC Bitcoin Funds over the past year, so too has grown the potential risk to U.S. investors. Premium volatility, high fees, insufficient disclosures, and technical hurdles are putting U.S. investor money at risk on a daily basis that could potentially be eliminated through access to a bitcoin ETP. As such, the Exchange believes that this proposal acts to limit the risk to U.S. investors that are increasingly seeking exposure to bitcoin through the elimination of premium volatility, the reduction of management fees through meaningful competition, the avoidance of risks associated with investing in operating companies that are imperfect proxies for bitcoin exposure, and protection from risk associated with custodying spot bitcoin by providing direct, 1-for-1 exposure to bitcoin in a regulated, transparent, exchange-traded vehicle.

The Exchange also believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that it has sufficiently demonstrated that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues that would be resolved by approving this proposal. Specifically, the Exchange believes that the significant increase in trading volume in Bitcoin Futures, the growth of liquidity at the inside in the spot market for bitcoin, and certain features of the Shares and the Benchmark mitigate potential manipulation concerns to the point that the investor protection issues that have arisen from the rapid growth of over-the-counter bitcoin funds since the Commission last reviewed an exchange proposal to list and trade a bitcoin ETP, including premium volatility and management fees, should be the central consideration as the Commission determines whether to approve this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place[75] with a regulated

[68] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[69] Regular Trading Hours is the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[70] 15 U.S.C. 78f.

[71] 15 U.S.C. 78f(b)(5).

[72] *See* Exchange Rule 14.11(f).

[73] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

[74] As the Exchange has stated in a number of other public documents, it continues to believe that bitcoin is resistant to price manipulation and that ''other means to prevent fraudulent and manipulative acts and practices'' exist to justify dispensing with the requisite surveillance sharing agreement. The geographically diverse and continuous nature of bitcoin trading render it difficult and prohibitively costly to manipulate the price of bitcoin. The fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity challenging. To the extent that there are bitcoin exchanges engaged in or allowing wash trading or other activity intended to manipulate the price of bitcoin on other markets, such pricing does not normally impact prices on other exchange because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin price on any single venue would require manipulation of the global bitcoin price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular bitcoin exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

[75] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance- sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing

market of significant size. Both the Exchange and CME are members of ISG.[76] The only remaining issue to be addressed is whether the Bitcoin Futures market constitutes a market of significant size, which the Exchange believes that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[77]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[78]

(a) Manipulation of the ETP

The significant growth in Bitcoin Futures across each of trading volumes, open interest, large open interest holders, and total market participants since the Wilshire Phoenix Disapproval was issued are reflective of that market's growing influence on the spot price, which according to the academic research cited above, was already leading the spot price in 2018 and 2019. Where Bitcoin Futures lead the price in the spot market such that a potential manipulator of the bitcoin spot market (beyond just the constituents of the Benchmark[79]) would have to participate in the Bitcoin Futures market, it follows that a potential manipulator of the Shares would similarly have to transact in the Bitcoin Futures market because the Benchmark is based on spot prices. Further, the Trust only allows for in-kind creation and redemption, which, as further described below, reduces the potential for manipulation of the Shares through manipulation of the Benchmark or any of its individual constituents, again emphasizing that a potential manipulator of the Shares would have to manipulate the entirety of the bitcoin spot market, which is led by the Bitcoin Futures market. As such, the Exchange believes that part (a) of the significant market test outlined above is satisfied and that common membership in ISG between the Exchange and CME would assist the listing exchange in detecting and deterring misconduct in the Shares.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

The Exchange also believes that trading in the Shares would not be the predominant force on prices in the Bitcoin Futures market (or spot market) for a number of reasons, including the significant volume in the Bitcoin Futures market, the size of bitcoin's market cap (approximately $1 trillion), and the significant liquidity available in the spot market. In addition to the Bitcoin Futures market data points cited above, the spot market for bitcoin is also very liquid. According to data from CoinRoutes from February 2021, the cost to buy or sell $5 million worth of bitcoin averages roughly 10 basis points with a market impact of 30 basis points.[80] For a $10 million market order, the cost to buy or sell is roughly 20 basis points with a market impact of 50 basis points. Stated another way, a market participant could enter a market buy or sell order for $10 million of bitcoin and only move the market 0.5%. More strategic purchases or sales (such as using limit orders and executing through OTC bitcoin trade desks) would likely have less obvious impact on the market—which is consistent with MicroStrategy, Tesla, and Square being able to collectively purchase billions of dollars in bitcoin. As such, the combination of Bitcoin Futures leading price discovery, the overall size of the bitcoin market, and the ability for market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact will help prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or Bitcoin Futures markets, satisfying part (b) of the test outlined above.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Exchange believes that such conditions are present. Specifically, the significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly and has grown more expensive over the past year. In January 2020, for example, the cost to buy or sell $5 million worth of bitcoin averaged roughly 30 basis points (compared to 10 basis points in 2/2021) with a market impact of 50 basis points (compared to 30 basis points in 2/2021).[81] For a $10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in 2/2021) with a market impact of 80 basis points (compared to 50 basis points in 2/2021). As the liquidity in the bitcoin spot market increases, it follows that the impact of $5 million and $10 million orders will continue to decrease the overall impact in spot price.

Additionally, offering only in-kind creation and redemption will provide unique protections against potential attempts to manipulate the Shares. While the Sponsor believes that the Benchmark which it uses to value the Trust's bitcoin is itself resistant to manipulation based on the methodology further described below, the fact that creations and redemptions are only available in-kind makes the manipulability of the Benchmark significantly less important. Specifically, because the Trust will not accept cash to buy bitcoin in order to create new shares or, barring a forced redemption of the Trust or under other extraordinary circumstances, be forced to sell bitcoin to pay cash for redeemed shares, the price that the Sponsor uses to value the Trust's bitcoin is not particularly important.[82] When

it to, the other party.'' The Commission has historically held that joint membership in ISG constitutes such a surveillance sharing agreement. *See* Wilshire Phoenix Disapproval.

[76] For a list of the current members and affiliate members of ISG, *see www.isgportal.com*.

[77] *See* Wilshire Phoenix Disapproval.

[78] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a ''cannot be manipulated'' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met. *Id*. at 37582.

[79] As further described below, the ''Benchmark'' for the Fund is the MVIS® CryptoCompare Bitcoin Benchmark Rate. The current exchange composition of the Benchmark is Bitstamp, Coinbase, Gemini, itBit and Kraken, which are the same constituents that compose the CME CF Bitcoin Reference Rate.

[80] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[81] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[82] While the Benchmark will not be particularly important for the creation and redemption process, it will be used for calculating fees.

authorized participants are creating with the Trust, they need to deliver a certain number of bitcoin per share (regardless of the valuation used) and when they're redeeming, they can similarly expect to receive a certain number of bitcoin per share. As such, even if the price used to value the Trust's bitcoin is manipulated (which the Sponsor believes that its methodology is resistant to), the ratio of bitcoin per Share does not change and the Trust will either accept (for creations) or distribute (for redemptions) the same number of bitcoin regardless of the value. This not only mitigates the risk associated with potential manipulation, but also discourages and disincentivizes manipulation of the Benchmark because there is little financial incentive to do so.

Commodity-Based Trust Shares

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 14.11(e)(4). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and listed bitcoin derivatives via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

Availability of Information

The Exchange also believes that the proposal promotes market transparency in that a large amount of information is currently available about bitcoin and will be available regarding the Trust and the Shares. In addition to the price transparency of the Benchmark, the Trust will provide information regarding the Trust's bitcoin holdings as well as additional data regarding the Trust. The Trust will provide an IIV per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.

The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the BZX Official Closing Price in relation to the NAV as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours. Information about the Benchmark, including key elements of how the Benchmark is calculated, will be publicly available at *www.mvis-indices.com/*.

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters, as well as the Benchmark. Information relating to trading, including price and volume information, in bitcoin is available from major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin exchanges are 24 hours per day, 365 days per year

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

*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 purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or 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 Exchange consents, the Commission will:

A. By order approve or disapprove such 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–CboeBZX–2021–019 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR–CboeBZX–2021–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2021–019, and should be submitted on or before April 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[83]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–05671 Filed 3–18–21; 8:45 am]

**BILLING CODE 8011–01–P**

[83] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–91326; File No. SR–CboeBZX–2021–019]**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the VanEck Bitcoin Trust, Under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares

March 15, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2021, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to list and trade shares of the VanEck Bitcoin Trust (the ''Trust''),[3] under BZX Rule 14.11(e)(4), Commodity-Based Trust Shares. The shares of the Trust are referred to herein as the ''Shares.''

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(e)(4),[4] which governs the listing and trading of Commodity-Based Trust Shares on the Exchange.[5] VanEck Digital Assets, LLC is the sponsor of the Trust (''Sponsor''). The Shares will be registered with the Commission by means of the Trust's registration statement on Form S–1 (the ''Registration Statement'').[6]

Background

Bitcoin is a digital asset based on the decentralized, open source protocol of the peer-to-peer computer network launched in 2009 that governs the creation, movement, and ownership of bitcoin and hosts the public ledger, or ''blockchain,'' on which all bitcoin transactions are recorded (the ''Bitcoin Network'' or ''Bitcoin''). The decentralized nature of the Bitcoin Network allows parties to transact directly with one another based on cryptographic proof instead of relying on a trusted third party. The protocol also lays out the rate of issuance of new bitcoin within the Bitcoin Network, a rate that is reduced by half approximately every four years with an eventual hard cap of 21 million. It's generally understood that the combination of these two features—a systemic hard cap of 21 million bitcoin and the ability to transact trustlessly with anyone connected to the Bitcoin Network—gives bitcoin its value.[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Trust was formed as a Delaware statutory trust on December 17, 2020 and is operated as a grantor trust for U.S. federal tax purposes. The Trust has no fixed termination date.

[4] The Commission approved BZX Rule 14.11(e)(4) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[5] All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

[6] *See* draft Registration Statement on Form S–1, dated December 30, 2020 submitted to the Commission by the Sponsor on behalf of the Trust. The descriptions of the Trust, the Shares, and the Benchmark contained herein are based, in part, on information in the Registration Statement. The Registration Statement is not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

[7] For additional information about bitcoin and the Bitcoin Network, *see https://bitcoin.org/en/getting-started*; *https://www.fidelitydigitalassets.com/articles/addressing-bitcoin-criticisms*; and *https://www.vaneck.com/education/investment-ideas/investing-in-bitcoin-and-digital-assets/*.

The first rule filing proposing to list an exchange-traded product to provide exposure to bitcoin in the U.S. was submitted by the Exchange on June 30, 2016.[8] At that time, blockchain technology, and digital assets that utilized it, were relatively new to the broader public. The market cap of all bitcoin in existence at that time was approximately $10 billion. No registered offering of digital asset securities or shares in an investment vehicle with exposure to bitcoin or any other cryptocurrency had yet been conducted, and the regulated infrastructure for conducting a digital asset securities offering had not begun to develop.[9] Similarly, regulated U.S. bitcoin futures contracts did not exist. The Commodity Futures Trading Commission (the ''CFTC'') had determined that bitcoin is a commodity,[10] but had not engaged in significant enforcement actions in the space. The New York Department of Financial Services (''NYDFS'') adopted its final BitLicense regulatory framework in 2015, but had only approved four entities to engage in activities relating to virtual currencies (whether through granting a BitLicense or a limited-purpose trust charter) as of June 30, 2016.[11] While the first over-the-counter bitcoin fund launched in 2013, public trading was limited and the fund had only $60 million in assets.[12] There were very few, if any, traditional financial institutions engaged in the space, whether through investment or providing services to digital asset companies. In January 2018, the Staff of the Commission noted in a letter to the Investment Company Institute and SIFMA that it was not aware, at that time, of a single custodian providing fund custodial services for digital assets.[13]

Fast forward to the first quarter of 2021 and the digital assets financial ecosystem, including bitcoin, has progressed significantly. The development of a regulated market for digital asset securities has significantly evolved, with market participants having conducted registered public offerings of both digital asset securities [14] and shares in investment vehicles holding bitcoin futures.[15] Additionally, licensed and regulated service providers have emerged to provide fund custodial services for digital assets, among other services. For example, in December 2020, the Commission adopted a conditional no-action position permitting certain special purpose broker-dealers to custody digital asset securities under Rule 15c3–3 under the Exchange Act; [16] in September 2020, the Staff of the Commission released a no-action letter permitting certain broker-dealers to operate a non-custodial Alternative Trading System (''ATS'') for digital asset securities, subject to specified conditions; [17] in October 2019, the Staff of the Commission granted temporary relief from the clearing agency registration requirement to an entity seeking to establish a securities clearance and settlement system based on distributed ledger technology,[18] and multiple transfer agents who provide services for digital asset securities registered with the Commission.[19]

Outside the Commission's purview, the regulatory landscape has changed significantly since 2016, and cryptocurrency markets have grown and evolved as well. The market for bitcoin is approximately 100 times larger, having recently reached a market cap of over $1 trillion. As of February 27, 2021, bitcoin's market cap is greater than companies such as Facebook, Inc., Berkshire Hathaway Inc., and JP Morgan Chase & Co. CFTC regulated bitcoin futures represented approximately $28 billion in notional trading volume on Chicago Mercantile Exchange (''CME'') (''Bitcoin Futures'') in December 2020 compared to $737 million, $1.4 billion, and $3.9 billion in total trading in December 2017, December 2018, and December 2019, respectively. Bitcoin Futures traded over $1.2 billion per day in December 2020 and represented $1.6 billion in open interest compared to $115 million in December 2019, which the Exchange believes represents a regulated market of significant size, as further discussed below.[20] The CFTC has exercised its regulatory jurisdiction in bringing a number of enforcement actions related to bitcoin and against trading platforms that offer cryptocurrency trading.[21] The U.S. Office of the Comptroller of the Currency (the ''OCC'') has made clear that federally-chartered banks are able

[8] *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018). This proposal was subsequently disapproved by the Commission. *See* Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the ''Winklevoss Order'').

[9] Digital assets that are securities under U.S. law are referred to throughout this proposal as ''digital asset securities.'' All other digital assets, including bitcoin, are referred to interchangeably as ''cryptocurrencies'' or ''virtual currencies.'' The term ''digital assets'' refers to all digital assets, including both digital asset securities and cryptocurrencies, together.

[10] *See* ''In the Matter of Coinflip, Inc.'' (''Coinflip'') (CFTC Docket 15–29 (September 17, 2015)) (order instituting proceedings pursuant to Sections 6(c) and 6(d) of the CEA, making findings and imposing remedial sanctions), in which the CFTC stated:

''Section 1a(9) of the CEA defines 'commodity' to include, among other things, 'all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.' 7 U.S.C. 1a(9). The definition of a 'commodity' is broad. *See, e.g., Board of Trade of City of Chicago* v. *SEC*, 677 F. 2d 1137, 1142 (7th Cir. 1982). Bitcoin and other virtual currencies are encompassed in the definition and properly defined as commodities.''

[11] A list of virtual currency businesses that are entities regulated by the NYDFS is available on the NYDFS website. *See https://www.dfs.ny.gov/apps_and_licensing/virtual_currency_businesses/regulated_entities.*

[12] Data as of March 31, 2016 according to publicly available filings. *See* Bitcoin Investment Trust Form S–1, dated May 27, 2016, available: *https://www.sec.gov/Archives/edgar/data/1588489/000095012316017801/filename1.htm.*

[13] *See* letter from Dalia Blass, Director, Division of Investment Management, U.S. Securities and Exchange Commission to Paul Schott Stevens, President & CEO, Investment Company Institute and Timothy W. Cameron, Asset Management Group—Head, Securities Industry and Financial Markets Association (January 18, 2018), *available at https://www.sec.gov/divisions/investment/noaction/2018/cryptocurrency-011818.htm.*

[14] *See* Prospectus supplement filed pursuant to Rule 424(b)(1) for INX Tokens (Registration No. 333–233363), *available at: https://www.sec.gov/Archives/edgar/data/1725882/000121390020023202/ea125858-424b1_inxlimited.htm.*

[15] *See* Prospectus filed by Stone Ridge Trust VI on behalf of NYDIG Bitcoin Strategy Fund Registration, *available at: https://www.sec.gov/Archives/edgar/data/1764894/000119312519309942/d693146d497.htm.*

[16] *See* Securities Exchange Act Release No. 90788, 86 FR 11627 (February 26, 2021) (File Number S7–25–20) (Custody of Digital Asset Securities by Special Purpose Broker-Dealers).

[17] *See* letter from Elizabeth Baird, Deputy Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Kris Dailey, Vice President, Risk Oversight & Operational Regulation, Financial Industry Regulatory Authority (September 25, 2020), *available at: https://www.sec.gov/divisions/marketreg/mr-noaction/2020/finra-ats-role-in-settlement-of-digital-asset-security-trades-09252020.pdf.*

[18] *See* letter from Jeffrey S. Mooney, Associate Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Charles G. Cascarilla & Daniel M. Burstein, Paxos Trust Company, LLC (October 28, 2019), *available at: https://www.sec.gov/divisions/marketreg/mr-noaction/2019/paxos-trust-company-102819-17a.pdf.*

[19] *See, e.g.,* Form TA–1/A filed by Tokensoft Transfer Agent LLC (CIK: 0001794142) on January 8, 2021, *available at: https://www.sec.gov/Archives/edgar/data/1794142/000179414219000001/xslFTA1X01/primary_doc.xml.*

[20] All statistics and charts included in this proposal are sourced from *https://www.cmegroup.com/trading/bitcoin-futures.html.*

[21] The CFTC's annual report for Fiscal Year 2020 (which ended on September 30, 2020) noted that the CFTC ''continued to aggressively prosecute misconduct involving digital assets that fit within the CEA's definition of commodity'' and ''brought a record setting seven cases involving digital assets.'' *See* CFTC FY2020 Division of Enforcement Annual Report, *available at: https://www.cftc.gov/media/5321/DOE_FY2020_AnnualReport_120120/download.* Additionally, the CFTC filed on October 1, 2020, a civil enforcement action against the owner/operators of the BitMEX trading platform, which was one of the largest bitcoin derivative exchanges. *See* CFTC Release No. 8270–20 (October 1, 2020) *available at: https://www.cftc.gov/PressRoom/PressReleases/8270-20.*

to provide custody services for cryptocurrencies and other digital assets.[22] The OCC recently granted conditional approval of two charter conversions by state-chartered trust companies to national banks, both of which provide cryptocurrency custody services.[23] NYDFS has granted no fewer than twenty-five BitLicenses, including to established public payment companies like PayPal Holdings, Inc. and Square, Inc., and limited purpose trust charters to entities providing cryptocurrency custody services, including the Trust's Custodian. The U.S. Treasury Financial Crimes Enforcement Network (''FinCEN'') has released extensive guidance regarding the applicability of the Bank Secrecy Act (''BSA'') and implementing regulations to virtual currency businesses,[24] and has proposed rules imposing requirements on entities subject to the BSA that are specific to the technological context of virtual currencies.[25] In addition, the Treasury's Office of Foreign Assets Control (''OFAC'') has brought enforcement actions over apparent violations of the sanctions laws in connection with the provision of wallet management services for digital assets.[26]

In addition to the regulatory developments laid out above, more traditional financial market participants appear to be embracing cryptocurrency: Large insurance companies,[27] asset managers,[28] university endowments,[29] pension funds,[30] and even historically bitcoin skeptical fund managers [31] are allocating to bitcoin. The largest over-the-counter bitcoin fund previously filed a Form 10 registration statement, which the Staff of the Commission reviewed and which took effect automatically, and is now a reporting company.[32] Established companies like Tesla, Inc.,[33] MicroStrategy Incorporated,[34] and Square, Inc.,[35] among others, have recently announced substantial investments in bitcoin in amounts as large as $1.5 billion (Tesla) and $425 million (MicroStrategy). Suffice to say, bitcoin is on its way to gaining mainstream usage.

Despite these developments, access for U.S. retail investors to gain exposure to bitcoin via a transparent and regulated exchange-traded vehicle remains limited. Instead current options include: (i) Paying a potentially extremely high premium (and high management fees) to buy over-the-counter bitcoin funds (''OTC Bitcoin Funds''), to the advantage of more sophisticated investors that are able to create shares at net asset value (''NAV'') directly with the issuing trust; (ii) facing the technical risk, complexity and generally high fees associated with buying spot bitcoin; or (iii) purchasing shares of operating companies that they believe will provide proxy exposure to bitcoin with limited disclosure about the associated risks. Meanwhile, investors in many other countries, including Canada,[36] are able to use more traditional exchange listed and traded products to gain exposure to bitcoin, disadvantaging U.S. investors and leaving them with more risky means of getting bitcoin exposure.[37]

## OTC Bitcoin Funds and Investor Protection

Over the past year, U.S. investor exposure to bitcoin through OTC Bitcoin Funds has grown into the tens of billions of dollars. With that growth, so too has grown the potential risk to U.S. investors. As described below, premium volatility, high fees, insufficient disclosures, and technical hurdles are putting U.S. investor money at risk on a daily basis that could potentially be eliminated through access to a bitcoin ETP. The Exchange understands the Commission's previous focus on potential manipulation of a bitcoin ETP in prior disapproval orders, but now believes that such concerns have been sufficiently mitigated and that the growing and quantifiable investor protection concerns should be the central consideration as the

[22] *See* OCC News Release 2021–2 (January 4, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-2.html.*

[23] *See* OCC News Release 2021–6 (January 13, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-6.html* and OCC News Release 2021–19 (February 5, 2021) *available at: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-19.html.*

[24] *See* FinCEN Guidance FIN–2019–G001 (May 9, 2019) (Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies) *available at: https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf.*

[25] *See* U.S. Department of the Treasury Press Release: ''The Financial Crimes Enforcement Network Proposes Rule Aimed at Closing Anti-Money Laundering Regulatory Gaps for Certain Convertible Virtual Currency and Digital Asset Transactions'' (December 18, 2020), *available at: https://home.treasury.gov/news/press-releases/sm1216.*

[26] *See* U.S. Department of the Treasury Enforcement Release: ''OFAC Enters Into $98,830 Settlement with BitGo, Inc. for Apparent Violations of Multiple Sanctions Programs Related to Digital Currency Transactions'' (December 30, 2020) *available at: https://home.treasury.gov/system/files/126/20201230_bitgo.pdf.*

[27] On December 10, 2020, Massachusetts Mutual Life Insurance Company (MassMutual) announced that it had purchased $100 million in bitcoin for its general investment account. *See* MassMutual Press Release ''Institutional Bitcoin provider NYDIG announces minority stake purchase by MassMutual'' (December 10, 2020) *available at: https://www.massmutual.com/about-us/news-and-press-releases/press-releases/2020/12/institutional-bitcoin-provider-nydig-announces-minority-stake-purchase-by-massmutual.*

[28] *See e.g.,* ''BlackRock's Rick Rieder says the world's largest asset manager has 'started to dabble' in bitcoin'' (February 17, 2021) *available at: https://www.cnbc.com/2021/02/17/blackrock-has-started-to-dabble-in-bitcoin-says-rick-rieder.html* and ''Guggenheim's Scott Minerd Says Bitcoin Should Be Worth $400,000'' (December 16, 2020) *available at: https://www.bloomberg.com/news/articles/2020-12-16/guggenheim-s-scott-minerd-says-bitcoin-should-be-worth-400-000.*

[29] *See e.g.,* ''Harvard and Yale Endowments Among Those Reportedly Buying Crypto'' (January 25, 2021) *available at: https://www.bloomberg.com/news/articles/2021-01-26/harvard-and-yale-endowments-among-those-reportedly-buying-crypto.*

[30] *See e.g.,* ''Virginia Police Department Reveals Why its Pension Fund is Betting on Bitcoin'' (February 14, 2019) *available at: https://finance.yahoo.com/news/virginia-police-department-reveals-why-194558505.html.*

[31] *See e.g.,* ''Bridgewater: Our Thoughts on Bitcoin'' (January 28, 2021) *available at: https://www.bridgewater.com/research-and-insights/our-thoughts-on-bitcoin* and ''Paul Tudor Jones says he likes bitcoin even more now, rally still in the 'first inning' '' (October 22, 2020) *available at: https://www.cnbc.com/2020/10/22/-paul-tudor-jones-says-he-likes-bitcoin-even-more-now-rally-still-in-the-first-inning.html.*

[32] *See* Letter from Division of Corporation Finance, Office of Real Estate & Construction to Barry E. Silbert, Chief Executive Officer, Grayscale Bitcoin Trust (January 31, 2020) *https://www.sec.gov/Archives/edgar/data/1588489/000000000020000953/filename1.pdf.*

[33] *See* Form 10–K submitted by Tesla, Inc. for the fiscal year ended December 31, 2020 at 23: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm.*

[34] *See* Form 10–Q submitted by MicroStrategy Incorporated for the quarterly period ended September 30, 2020 at 8: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1050446/000156459020047995/mstr-10q_20200930.htm.*

[35] *See* Form 10–Q submitted by Square, Inc. for the quarterly period ended September 30, 2020 at 51: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1512673/000151267320000012/sq-20200930.htm.*

[36] The Exchange notes that the Purpose Bitcoin ETF, a retail physical bitcoin ETP recently launched in Canada, reportedly reached $421.8 million in assets under management (''AUM'') in two days, demonstrating the demand for a North American market listed bitcoin exchange-traded product (''ETP''). The Purpose Bitcoin ETF also offers a class of units that is U.S. dollar denominated, which could appeal to U.S. investors. Without an approved bitcoin ETP in the U.S. as a viable alternative, U.S. investors could seek to purchase these shares in order to get access to bitcoin exposure. Given the separate regulatory regime and the potential difficulties associated with any international litigation, such an arrangement would create more risk exposure for U.S. investors than they would otherwise have with a U.S. exchange listed ETP.

[37] The Exchange notes that securities regulators in a number of other countries have either approved or otherwise allowed the listing and trading of bitcoin ETPs. Specifically, these funds include the Purpose Bitcoin ETF, Bitcoin ETF, VanEck Vectors Bitcoin ETN, WisdomTree Bitcoin ETP, Bitcoin Tracker One, BTCetc bitcoin ETP, Amun Bitcoin ETP, Amun Bitcoin Suisse ETP, 21Shares Short Bitcoin ETP, CoinShares Physical Bitcoin ETP.

Commission reviews this proposal. As such, the Exchange believes that approving this proposal (and comparable proposals submitted hereafter) provides the Commission with the opportunity to allow U.S. investors with access to bitcoin in a regulated and transparent exchange-traded vehicle that would act to limit risk to U.S. investors by: (i) Reducing premium volatility; (ii) reducing management fees through meaningful competition; (iii) reducing risks associated with investing in operating companies that are imperfect proxies for bitcoin exposure; and (iv) providing an alternative to custodying spot bitcoin.

(i) OTC Bitcoin Funds and Premium Volatility

OTC Bitcoin Funds are generally designed to provide exposure to bitcoin in a manner similar to the Shares. However, unlike the Shares, OTC Bitcoin Funds are unable to freely offer creation and redemption in a way that incentivizes market participants to keep their shares trading in line with their NAV [38] and, as such, frequently trade at a price that is out of line with the value of their assets held. Historically, OTC Bitcoin Funds have traded at a significant premium to NAV.[39]

Trading at a premium (or potentially a discount) is not unique to OTC Bitcoin Funds and is not in itself problematic, however the AUM for OTC Bitcoin Funds has grown significantly in the past year. In fact, the largest OTC Bitcoin Fund has grown to $35.0 billion in AUM [40] and has historically traded at a premium of between roughly five and forty percent, though it has seen premiums at times above one hundred percent.[41] As of February 17, 2021, the premium was approximately 5%, representing around $1.4 billion in market value in excess of the bitcoin actually held by the fund. If premium numbers move back to the middle of that range to 20% (which historically could occur at any time and overnight), there would be $7 billion worth of shares outstanding above the value of the bitcoin actually held by the fund and if the premium returns to the upper end of its typical range, that number increases to $14 billion. These numbers are only associated with a single OTC Bitcoin Fund—as more and more OTC Bitcoin Funds come to market and more investor assets flood into them to get access to bitcoin exposure, the potential dollars at risk will only increase.

This raises significant investor protection issues in several ways. First, the most obvious issue is that investors are buying shares of a fund for a price in excess of the per share value of the fund's underlying assets. Even operating within the normal premium range, it's possible for an investor to buy shares of an OTC Bitcoin Fund only to have those shares quickly lose 10% or more in dollar value excluding any movement of the price of bitcoin. That is to say—the price of bitcoin could have stayed exactly the same from market close on one day to market open the next, yet the value of the shares held by the investor decreased only because of the fluctuation of the premium. As more investment vehicles, including mutual funds and ETFs, seek to gain exposure to bitcoin, the easiest option for a buy and hold strategy is often an OTC Bitcoin Fund, meaning that even investors that do not directly buy OTC Bitcoin Funds can be disadvantaged by extreme premiums (or discounts) and premium volatility.

The second issue is related to the first and explains how the premium in OTC Bitcoin Funds essentially creates a direct payment from retail investors to more sophisticated investors. Generally speaking, only accredited investors are able to create shares with the issuing trust, which means that they are able to buy shares directly from the trust at NAV (by either delivering cash or bitcoin) without having to pay the premium. While they are forced to hold the shares for at least six months before selling, in reality they can immediately hedge any exposure to the price of bitcoin and simply wait six months to sell the shares to a retail investor and collect the premium.

As noted above, the existence of the premium and premium collection opportunity is not unique to OTC Bitcoin Funds and does not in itself warrant the approval of an exchange traded product.[42] What makes this situation unique is that such a premium can exist in a product with $35 billion in assets under management,[43] that billions of retail investor dollars are constantly under threat of premium volatility,[44] and that premium volatility is generally captured by more sophisticated investors on a riskless basis. The Exchange understands the Commission's focus on potential manipulation of a bitcoin ETP in prior disapproval orders, but now believes that current circumstances warrant that this direct, quantifiable investor protection issue should be the central consideration as the Commission determines whether to approve this proposal.

(ii) Spot and Proxy Exposure

Exposure to bitcoin through an ETP also presents certain advantages for retail investors compared to buying spot bitcoin directly. The most notable advantage is the use of the Custodian to custody the Trust's bitcoin assets. The Sponsor has carefully selected the Custodian, a trust company chartered and regulated by NYDFS, due to its manner of holding the Trust's bitcoin. This includes, among others, the use of ''cold'' (offline) storage to hold private keys and the employment by the Custodian of a certain degree of cybersecurity measures and operational best practices. By contrast, an individual retail investor holding bitcoin through a cryptocurrency exchange lacks these protections. Typically, retail exchanges hold most, if not all, retail investors' bitcoin in ''hot'' (internet-connected) storage and do not make any commitments to indemnify

[38] Because OTC Bitcoin Funds are not listed on an exchange, they are also not subject to the same transparency and regulatory oversight by a listing exchange as the Shares would be. In the case of the Trust, the existence of a surveillance-sharing agreement between the Exchange and the Bitcoin Futures market results in increased investor protections compared to OTC Bitcoin Funds.

[39] The inability to trade in line with NAV may at some point result in OTC Bitcoin Funds trading at a discount to their NAV. While that has not historically been the case, such a scenario would give rise to nearly identical potential issues related to trading at a premium as described below.

[40] As of February 19, 2021. Compare to an AUM of approximately $2.6 billion on February 26, 2020, the date on which the Commission issued the most recent disapproval order for a bitcoin ETP. *See* Securities Exchange Act Release No. 88284 (February 26, 2020), 85 FR 12595 (March 3, 2020) (SR–NYSEArca–2019–39) (the ''Wilshire Phoenix Disapproval''). While the price of one bitcoin has increased approximately 400% in the intervening period, the total AUM has increased by approximately 1240%, indicating that the increase in AUM was created beyond just price appreciation in bitcoin.

[41] *See* ''Traders Piling Into Overvalued Crypto Funds Risk a Painful Exit'' (February 4, 2021) *available at: https://www.bloomberg.com/news/articles/2021-02-04/bitcoin-one-big-risk-when-investing-in-crypto-funds*

[42] The Exchange notes, for example, that similar premiums and premium volatility exist for other non-bitcoin cryptocurrency related over-the-counter funds, but that the size and investor interest in those funds does not give rise to the same investor protection concerns that exist for OTC Bitcoin Funds.

[43] At $35 billion in AUM, the largest OTC Bitcoin Fund would be the 32nd largest out of roughly 2,400 U.S. listed ETPs.

[44] The Exchange notes that in two recent incidents, the premium dropped from 28.28% to 12.29% from the close on 3/19/20 to the close on 3/20/20 and from 38.40% to 21.05% from the close on 5/13/19 to the close on 5/14/19. Similarly, over the period of 12/21/20 to 1/21/20, the premium went from 40.18% to 2.79%. While the price of bitcoin appreciated significantly during this period and NAV per share increased by 41.25%, the price per share increased by only 3.58%.

retail investors or to observe any particular cybersecurity standard. Meanwhile, a retail investor holding spot bitcoin directly in a self-hosted wallet may suffer from inexperience in private key management (*e.g.,* insufficient password protection, lost key, etc.), which could cause them to lose some or all of their bitcoin holdings. In the Custodian, the Trust has engaged a regulated and licensed entity highly experienced in bitcoin custody, with dedicated, trained employees and procedures to manage the private keys to the Trust's bitcoin, and which is accountable for failures. Thus, with respect to custody of the Trust's bitcoin assets, the Trust presents advantages from an investment protection standpoint for retail investors compared to owning spot bitcoin directly.

Finally, as described in the Background section above, recently a number of operating companies engaged in unrelated businesses—such as Tesla (a car manufacturer) and MicroStrategy (an enterprise software company)—have announced investments as large as $1.5 billion in bitcoin.[45] Without access to bitcoin exchange-traded products, retail investors seeking investment exposure to bitcoin may end up purchasing shares in these companies in order to gain the exposure to bitcoin that they seek.[46] In fact, mainstream financial news networks have written a number of articles providing investors with guidance for obtaining bitcoin exposure through publicly traded companies (such as MicroStrategy, Tesla, and bitcoin mining companies, among others) instead of dealing with the complications associated with buying spot bitcoin in the absence of a bitcoin ETP.[47] Such operating companies, however, are imperfect bitcoin proxies and provide investors with partial bitcoin exposure paired with a host of additional risks associated with whichever operating company they decide to purchase. Additionally, the disclosures provided by the aforementioned operating companies with respect to risks relating to their bitcoin holdings are generally substantially smaller than the registration statement of a bitcoin ETP, including the Registration Statement, typically amounting to a few sentences of narrative description and a handful of risk factors.[48] In other words, investors seeking bitcoin exposure through publicly traded companies are gaining only partial exposure to bitcoin and are not fully benefitting from the risk disclosures and associated investor protections that come from the securities registration process.

Bitcoin Futures

CME began offering trading in Bitcoin Futures in 2017. Each contract represents five bitcoin and is based on the CME CF Bitcoin Reference Rate.[49] The contracts trade and settle like other cash-settled commodity futures contracts. Nearly every measurable metric related to Bitcoin Futures has trended consistently up since launch and/or accelerated upward in the past year. For example, there was approximately $28 billion in trading in Bitcoin Futures in December 2020 compared to $737 million, $1.4 billion, and $3.9 billion in total trading in December 2017, December 2018, and December 2019, respectively. Bitcoin Futures traded over $1.2 billion per day on the CME in December 2020 and represented $1.6 billion in open interest compared to $115 million in December 2019. This general upward trend in trading volume and open interest is captured in the following chart.

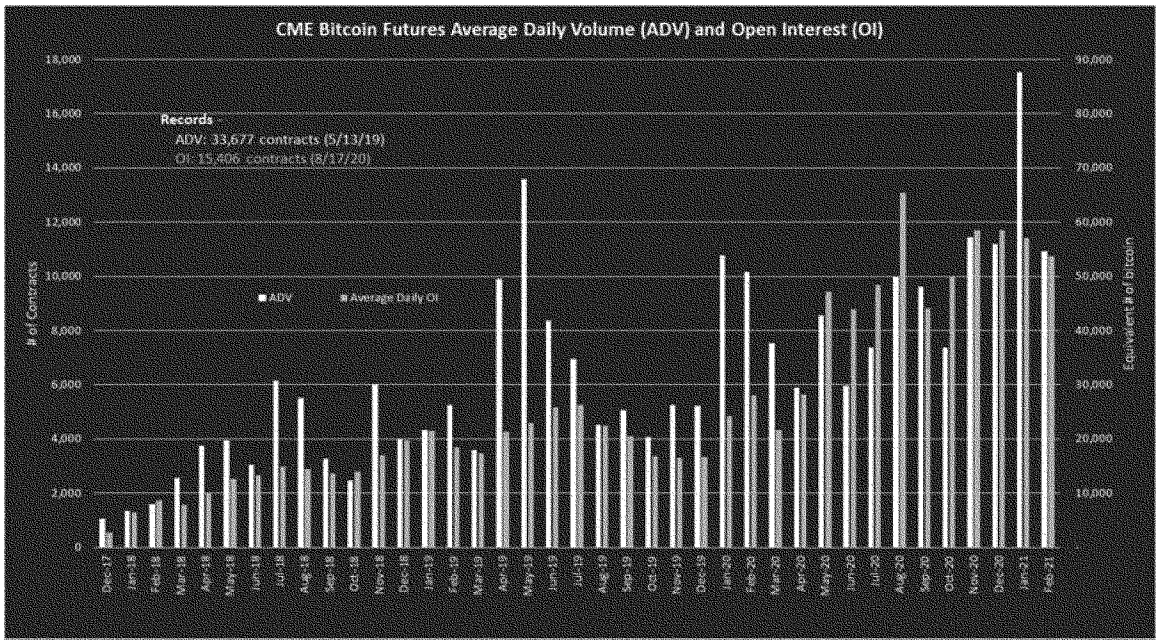
[45] It's been announced that MicroStrategy is currently contemplating a $600 million convertible note offering for the purpose of acquiring bitcoin. *See: https://www.cnbc.com/2021/02/16/microstrategy-shares-rise-after-revealing-plans-to-buy-more-bitcoin.html.*

[46] In August 2017, the Commission's Office of Investor Education and Advocacy warned investors about situations where companies were publicly announcing events relating to digital coins or tokens in an effort to affect the price of the company's publicly traded common stock. *See https://www.sec.gov/oiea/investor-alerts-and-bulletins/ia_icorelatedclaims.*

[47] *See e.g.,* ''7 public companies with exposure to bitcoin'' (February 8, 2021) available at: *https://finance.yahoo.com/news/7-public-companies-with-exposure-to-bitcoin-154201525.html*; and ''Want to get in the crypto trade without holding bitcoin yourself? Here are some investing ideas'' (February 19, 2021) *available at: https://www.cnbc.com/2021/02/19/ways-to-invest-in-bitcoin-without-holding-the-cryptocurrency-yourself-.html.*

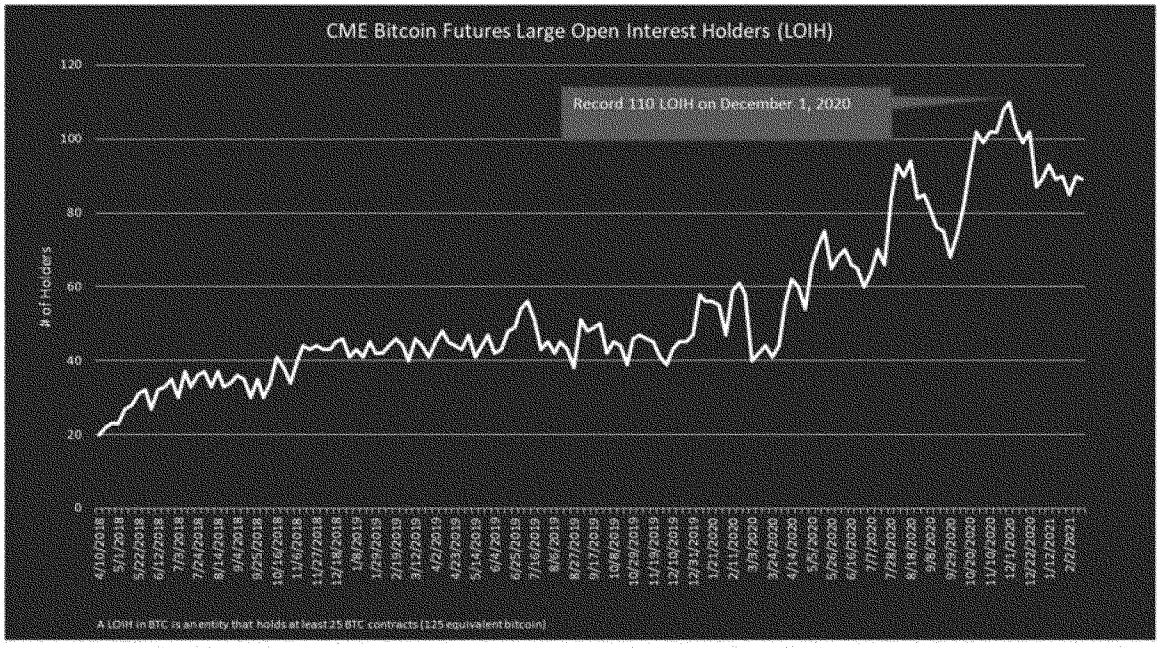
[48] *See, e.g.,* Tesla 10–K for the year ended December 31, 2020, which mentions bitcoin just nine times: *https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm.*

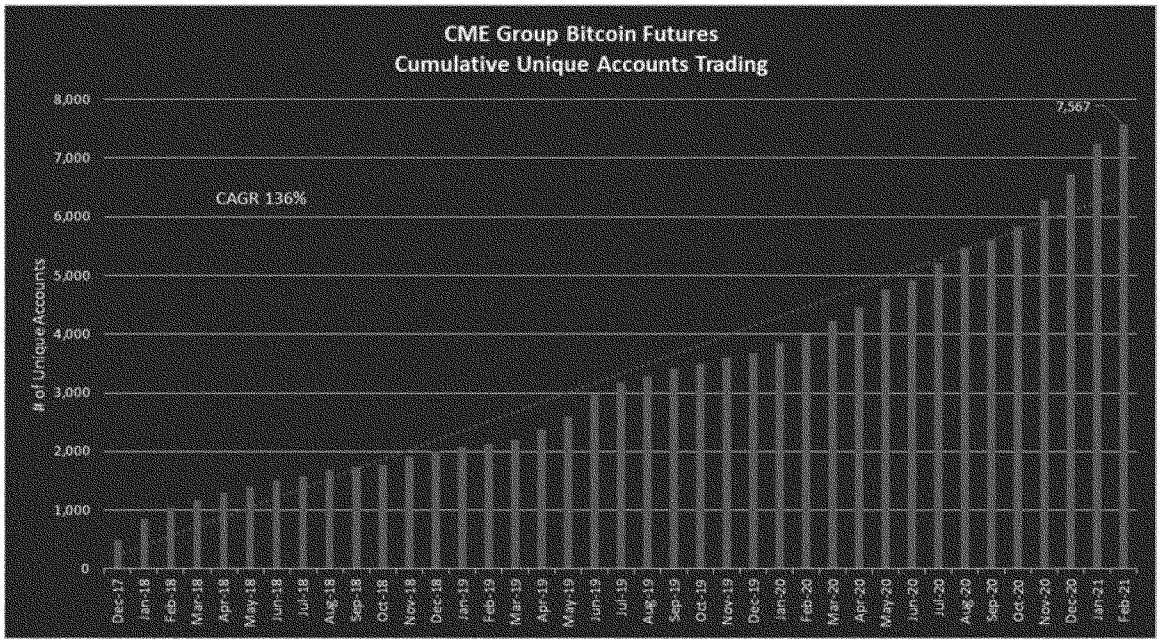
[49] According to CME, the CME CF Bitcoin Reference Rate aggregates the trade flow of major bitcoin spot exchanges during a specific calculation window into a once-a-day reference rate of the U.S. dollar price of bitcoin. Calculation rules are geared toward maximum transparency and real-time replicability in underlying spot markets, including Bitstamp, Coinbase, Gemini, itBit, and Kraken. For additional information, refer to *https://www.cmegroup.com/trading/cryptocurrency-indices/cf-bitcoin-reference-rate.html?redirect=/trading/cf-bitcoin-reference-rate.html.*




Similarly, the number of large open interest holders [50] has continued to increase even as the price of bitcoin has risen, as have the number of unique accounts trading Bitcoin Futures.

[50] A large open interest holder in Bitcoin Futures is an entity that holds at least 25 contracts, which is the equivalent of 125 bitcoin. At a price of approximately $30,000 per bitcoin on 12/31/20, more than 80 firms had outstanding positions of greater than $3.8 million in Bitcoin Futures.




The Sponsor further believes that academic research corroborates the overall trend outlined above and supports the thesis that the Bitcoin Futures pricing leads the spot market and, thus, a person attempting to manipulate the Shares would also have to trade on that market to manipulate the ETP. Specifically, the Sponsor believes that such research indicates that bitcoin futures lead the bitcoin spot market in price formation.[51]

Section 6(b)(5) and the Applicable Standards

The Commission has approved numerous series of Trust Issued Receipts,[52] including Commodity-Based Trust Shares,[53] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) The requirement that a national securities exchange's rules are designed to prevent fraudulent and

[51] *See* Hu, Y., Hou, Y. and Oxley, L. (2019). ''What role do futures markets play in Bitcoin pricing? Causality, cointegration and price discovery from a time-varying perspective'' (available at: *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7481826/*). This academic research paper concludes that ''There exist no episodes where the Bitcoin spot markets dominates the price discovery processes with regard to Bitcoin futures. This points to a conclusion that the price formation originates solely in the Bitcoin futures market. We can, therefore, conclude that the Bitcoin futures markets dominate the dynamic price discovery process based upon time-varying information share measures. Overall, price discovery seems to occur in the Bitcoin futures markets rather than the underlying spot market based upon a time-varying perspective.''

[52] *See* Exchange Rule 14.11(f).

[53] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

manipulative acts and practices;[54] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest. The Exchange believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that it has sufficiently demonstrated that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues that would be resolved by approving this proposal. Specifically, the Exchange lays out below why it believes that the significant increase in trading volume in Bitcoin Futures, the growth of liquidity at the inside in the spot market for bitcoin, and certain features of the Shares and the Benchmark mitigate potential manipulation concerns to the point that the investor protection issues that have arisen from the rapid growth of over-the-counter bitcoin funds since the Commission last reviewed an exchange proposal to list and trade a bitcoin ETP, including premium volatility and management fees, should be the central consideration as the Commission determines whether to approve this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place[55] with a regulated market of significant size. Both the Exchange and CME are members of the Intermarket Surveillance Group (the ''ISG'').[56] The only remaining issue to be addressed is whether the Bitcoin Futures market constitutes a market of significant size, which the Exchange believes that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) There is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[57]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[58]

(a) Manipulation of the ETP

The significant growth in Bitcoin Futures across each of trading volumes, open interest, large open interest holders, and total market participants since the Wilshire Phoenix Disapproval was issued are reflective of that market's growing influence on the spot price, which according to the academic research cited above, was already leading the spot price in 2018 and 2019. Where Bitcoin Futures lead the price in the spot market such that a potential manipulator of the bitcoin spot market (beyond just the constituents of the Benchmark[59]) would have to participate in the Bitcoin Futures market, it follows that a potential manipulator of the Shares would similarly have to transact in the Bitcoin Futures market because the Benchmark is based on spot prices. Further, the Trust only allows for in-kind creation and redemption, which, as further described below, reduces the potential for manipulation of the Shares through manipulation of the Benchmark or any of its individual constituents, again emphasizing that a potential manipulator of the Shares would have to manipulate the entirety of the bitcoin spot market, which is led by the Bitcoin Futures market. As such, the Exchange believes that part (a) of the significant market test outlined above is satisfied and that common membership in ISG between the Exchange and CME would assist the listing exchange in detecting and deterring misconduct in the Shares.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

The Exchange also believes that trading in the Shares would not be the predominant force on prices in the Bitcoin Futures market (or spot market) for a number of reasons, including the significant volume in the Bitcoin Futures market, the size of bitcoin's market cap (approximately $1 trillion), and the significant liquidity available in the spot market. In addition to the Bitcoin Futures market data points cited above, the spot market for bitcoin is also very liquid. According to data from CoinRoutes from February 2021, the cost to buy or sell $5 million worth of bitcoin averages roughly 10 basis points with a market impact of 30 basis points.[60] For a $10 million market order,

[54] As the Exchange has stated in a number of other public documents, it continues to believe that bitcoin is resistant to price manipulation and that ''other means to prevent fraudulent and manipulative acts and practices'' exist to justify dispensing with the requisite surveillance sharing agreement. The geographically diverse and continuous nature of bitcoin trading render it difficult and prohibitively costly to manipulate the price of bitcoin. The fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity challenging. To the extent that there are bitcoin exchanges engaged in or allowing wash trading or other activity intended to manipulate the price of bitcoin on other markets, such pricing does not normally impact prices on other exchange because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin price on any single venue would require manipulation of the global bitcoin price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular bitcoin exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

[55] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance-sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing it to, the other party.'' The Commission has historically held that joint membership in ISG constitutes such a surveillance sharing agreement. *See* Wilshire Phoenix Disapproval.

[56] For a list of the current members and affiliate members of ISG, *see www.isgportal.com*.

[57] *See* Wilshire Phoenix Disapproval.

[58] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a ''cannot be manipulated'' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met. *Id.* at 37582.

[59] As further described below, the ''Benchmark'' for the Fund is the MVIS® CryptoCompare Bitcoin Benchmark Rate. The current exchange composition of the Benchmark is Bitstamp, Coinbase, Gemini, itBit and Kraken, which are the same constituents that compose the CME CF Bitcoin Reference Rate.

[60] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase

the cost to buy or sell is roughly 20 basis points with a market impact of 50 basis points. Stated another way, a market participant could enter a market buy or sell order for $10 million of bitcoin and only move the market 0.5%. More strategic purchases or sales (such as using limit orders and executing through OTC bitcoin trade desks) would likely have less obvious impact on the market—which is consistent with MicroStrategy, Tesla, and Square being able to collectively purchase billions of dollars in bitcoin. As such, the combination of Bitcoin Futures leading price discovery, the overall size of the bitcoin market, and the ability for market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact will help prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or Bitcoin Futures markets, satisfying part (b) of the test outlined above.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Exchange believes that such conditions are present. Specifically, the significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly and has grown more expensive over the past year. In January 2020, for example, the cost to buy or sell $5 million worth of bitcoin averaged roughly 30 basis points (compared to 10 basis points in 2/2021) with a market impact of 50 basis points (compared to 30 basis points in 2/2021).[61] For a $10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in 2/2021) with a market impact of 80 basis points (compared to 50 basis points in 2/2021). As the liquidity in the bitcoin spot market increases, it follows that the impact of $5 million and $10 million orders will continue to decrease the overall impact in spot price.

Additionally, offering only in-kind creation and redemption will provide unique protections against potential attempts to manipulate the Shares. While the Sponsor believes that the Benchmark which it uses to value the Trust's bitcoin is itself resistant to manipulation based on the methodology further described below, the fact that creations and redemptions are only available in-kind makes the manipulability of the Benchmark significantly less important. Specifically, because the Trust will not accept cash to buy bitcoin in order to create new shares or, barring a forced redemption of the Trust or under other extraordinary circumstances, be forced to sell bitcoin to pay cash for redeemed shares, the price that the Sponsor uses to value the Trust's bitcoin is not particularly important.[62] When authorized participants are creating with the Trust, they need to deliver a certain number of bitcoin per share (regardless of the valuation used) and when they're redeeming, they can similarly expect to receive a certain number of bitcoin per share. As such, even if the price used to value the Trust's bitcoin is manipulated (which the Sponsor believes that its methodology is resistant to), the ratio of bitcoin per Share does not change and the Trust will either accept (for creations) or distribute (for redemptions) the same number of bitcoin regardless of the value. This not only mitigates the risk associated with potential manipulation, but also discourages and disincentivizes manipulation of the Benchmark because there is little financial incentive to do so.

VanEck Bitcoin Trust

Delaware Trust Company is the trustee (''Trustee''). The State Street Bank and Trust Company will be the administrator (''Administrator'') and transfer agent (''Transfer Agent''). Van Eck Securities Corporation will be the marketing agent (''Marketing Agent'') in connection with the creation and redemption of ''Baskets'' of Shares. Van Eck Securities Corporation (''VanEck'') provides assistance in the marketing of the Shares. A third-party regulated custodian (the ''Custodian'') will be responsible for custody of the Trust's bitcoin.[63]

According to the Registration Statement, each Share will represent a fractional undivided beneficial interest in the Trust's net assets. The Trust's assets will consist of bitcoin held by the Custodian on behalf of the Trust. The Trust generally does not intend to hold cash or cash equivalents. However, there may be situations where the Trust will unexpectedly hold cash on a temporary basis.

According to the Registration Statement, the Trust is neither an investment company registered under the Investment Company Act of 1940, as amended,[64] nor a commodity pool for purposes of the Commodity Exchange Act (''CEA''), and neither the Trust nor the Sponsor is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the Shares.

When the Trust sells or redeems its Shares, it will do so in ''in-kind'' transactions in blocks of 50,000 Shares (a ''Creation Basket'') at the Trust's NAV. Authorized participants will deliver, or facilitate the delivery of, bitcoin to the Trust's account with the Custodian in exchange for Shares when they purchase Shares, and the Trust, through the Bitcoin Custodian, will deliver bitcoin to such authorized participants when they redeem Shares with the Trust. Authorized participants may then offer Shares to the public at prices that depend on various factors, including the supply and demand for Shares, the value of the Trust's assets, and market conditions at the time of a transaction. Shareholders who buy or sell Shares during the day from their broker may do so at a premium or discount relative to the NAV of the Shares of the Trust.

Investment Objective

According to the Registration Statement and as further described below, the investment objective of the Trust is for the Shares to reflect the performance of the MVIS® CryptoCompare Bitcoin Benchmark Rate less the expenses of the Trust's operations. In seeking to achieve its investment objective, the Trust will hold bitcoin and will value its Shares daily based on the reported MVIS® CryptoCompare Bitcoin Benchmark Rate and process all creations and redemptions in-kind in transactions with authorized participants. The Trust is not actively managed.

The Benchmark

As described in the Registration Statement, the Fund will use the Benchmark to calculate the Trust's NAV. The Benchmark is designed to be a robust price for bitcoin in USD and

Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[61] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[62] While the Benchmark will not be particularly important for the creation and redemption process, it will be used for calculating fees.

[63] The Exchange notes that the Sponsor is finalizing negotiations with the Custodian and it will submit an amendment to this proposal upon execution of an agreement with the Custodian.

[64] 15 U.S.C. 80a–1.

there is no component other than bitcoin in the index. The underlying exchanges are sourced from the industry leading CryptoCompare Exchange Benchmark review report. CryptoCompare Exchange Benchmark was established in 2019 as a tool designed to bring clarity to the digital asset exchange sector by providing a framework for assessing risk and in turn bringing transparency and accountability to a complex and rapidly evolving market.[65] The current exchange composition of the Benchmark is Bitstamp, Coinbase, Gemini, itBit and Kraken, which are the same constituents that compose the CME CF Bitcoin Reference Rate.

In calculating the MVIS® CryptoCompare Bitcoin Benchmark Rate, the methodology captures trade prices and sizes from exchanges and examines twenty three-minute periods leading up to 4:00 p.m. EST. It then calculates an equal-weighted average of the volume-weighted median price of these twenty three-minute periods, removing the highest and lowest contributed prices. Using twenty consecutive three-minute segments over a sixty-minute period means malicious actors would need to sustain efforts to manipulate the market over an extended period of time, or would need to replicate efforts multiple times across exchanges, potentially triggering review. This extended period also supports authorized participant activity by capturing volume over a longer time period, rather than forcing authorized participants to mark an individual close or auction. The use of a median price reduces the ability of outlier prices to impact the NAV, as it systematically excludes those prices from the NAV calculation. The use of a volume-weighted median (as opposed to a traditional median) serves as an additional protection against attempts to manipulate the NAV by executing a large number of low-dollar trades, because, any manipulation attempt would have to involve a majority of global spot bitcoin volume in a three-minute window to have any influence on the NAV. As discussed in the Registration Statement, removing the highest and lowest prices further protects against attempts to manipulate the NAV, requiring bad actors to act on multiple exchanges at once to have any ability to influence the price.

Availability of Information

In addition to the price transparency of the Benchmark, the Trust will provide information regarding the Trust's bitcoin holdings as well as additional data regarding the Trust. The Trust will provide an Intraday Indicative Value (''IIV'') per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.

The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the BZX Official Closing Price[66] in relation to the NAV as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours. Information about the Benchmark, including key elements of how the Benchmark is calculated, will be publicly available at *www.mvis-indices.com/*.

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA'').

Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters, as well as the Benchmark. Information relating to trading, including price and volume information, in bitcoin is available from major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin exchanges are 24 hours per day, 365 days per year.

Net Asset Value

NAV means the total assets of the Trust including, but not limited to, all bitcoin and cash, if any, less total liabilities of the Trust, each determined on the basis of generally accepted accounting principles. The Administrator will determine the NAV of the Trust on each day that the Exchange is open for regular trading, as promptly as practical after 4:00 p.m. EST. The NAV of the Trust is the aggregate value of the Trust's assets less its estimated accrued but unpaid liabilities (which include accrued expenses). In determining the Trust's NAV, the Administrator values the bitcoin held by the Trust based on the price set by the MVIS® CryptoCompare Bitcoin Benchmark Rate as of 4:00 p.m. EST. The Administrator also determines the NAV per Share.

Creation and Redemption of Shares

According to the Registration Statement, on any business day, an authorized participant may place an order to create one or more baskets. Purchase orders must be placed by 4:00 p.m. Eastern Time, or the close of regular trading on the Exchange, whichever is earlier. The day on which an order is received is considered the

[65] The CryptoCompare Exchange Benchmark methodology utilizes a combination of qualitative and quantitative metrics to analyze a comprehensive data set across eight categories of evaluation legal/regulation, KYC/transaction risk, data provision, security, team/exchange, asset quality/diversity, market quality and negative events. The CryptoCompare Exchange Benchmark review report assigns a grade to each exchange which helps identify what it believes to be the lowest risk exchanges in the industry. Based on the CryptoCompare Exchange Benchmark, MVIS initially selects the top five exchanges by rank for inclusion in the MVIS® CryptoCompare Bitcoin Benchmark Rate. If an eligible exchange is downgraded by two or more notches in a semi-annual review and is no longer in the top five by rank, it is replaced by the highest ranked non-component exchange. Adjustments to exchange coverage are announced four business days prior to the first business day of each of March and September at 23:00 CET. The MVIS® CryptoCompare Bitcoin Benchmark Rate is rebalanced at 16:00:00 GMT/BST on the last business day of each of February and August.

[66] As defined in Rule 11.23(a)(3), the term ''BZX Official Closing Price'' shall mean the price disseminated to the consolidated tape as the market center closing trade.

purchase order date. The total deposit of bitcoin required is an amount of bitcoin that is in the same proportion to the total assets of the Trust, net of accrued expenses and other liabilities, on the date the order to purchase is properly received, as the number of Shares to be created under the purchase order is in proportion to the total number of Shares outstanding on the date the order is received. Each night, the Sponsor will publish the amount of bitcoin that will be required in exchange for each creation order. The Administrator determines the required deposit for a given day by dividing the number of bitcoin held by the Trust as of the opening of business on that business day, adjusted for the amount of bitcoin constituting estimated accrued but unpaid fees and expenses of the Trust as of the opening of business on that business day, by the quotient of the number of Shares outstanding at the opening of business divided by 50,000. The procedures by which an authorized participant can redeem one or more Creation Baskets mirror the procedures for the creation of Creation Baskets.

Rule 14.11(e)(4)—Commodity-Based Trust Shares

The Shares will be subject to BZX Rule 14.11(e)(4), which sets forth the initial and continued listing criteria applicable to Commodity-Based Trust Shares. The Exchange will obtain a representation that the Trust's NAV will be calculated daily and that these values and information about the assets of the Trust will be made available to all market participants at the same time. The Exchange notes that, as defined in Rule 14.11(e)(4)(C)(i), the Shares will be: (a) Issued by a trust that holds a specified commodity [67] deposited with the trust; (b) issued by such trust in a specified aggregate minimum number in return for a deposit of a quantity of the underlying commodity; and (c) when aggregated in the same specified minimum number, may be redeemed at a holder's request by such trust which will deliver to the redeeming holder the quantity of the underlying commodity.

Upon termination of the Trust, the Shares will be removed from listing. The Trustee, Delaware Trust Company, is a trust company having substantial capital and surplus and the experience and facilities for handling corporate trust business, as required under Rule 14.11(e)(4)(E)(iv)(a) and that no change will be made to the trustee without prior notice to and approval of the Exchange. The Exchange also notes that, pursuant to Rule 14.11(e)(4)(F), neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions or delays in calculating or disseminating any underlying commodity value, the current value of the underlying commodity required to be deposited to the Trust in connection with issuance of Commodity-Based Trust Shares; resulting from any negligent act or omission by the Exchange, or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange, its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying commodity. Finally, as required in Rule 14.11(e)(4)(G), the Exchange notes that any registered market maker (''Market Maker'') in the Shares must file with the Exchange in a manner prescribed by the Exchange and keep current a list identifying all accounts for trading in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in an underlying commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule. In addition to the existing obligations under Exchange rules regarding the production of books and records (see, *e.g.,* Rule 4.2), the registered Market Maker in Commodity-Based Trust Shares shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the underlying physical commodity, related commodity futures or options on commodity futures, or any other related commodity derivatives, as may be requested by the Exchange.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the bitcoin underlying the Shares; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(e)(4)(E)(ii), which sets forth circumstances under which trading in the Shares may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. BZX will allow trading in the Shares during all trading sessions on the Exchange. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a) the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01 where the price is greater than $1.00 per share or $0.0001 where the price is less than $1.00 per share.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information

[67] For purposes of Rule 14.11(e)(4), the term commodity takes on the definition of the term as provided in the Commodity Exchange Act. As noted above, the CFTC has opined that Bitcoin is a commodity as defined in Section 1a(9) of the Commodity Exchange Act. *See* Coinflip.

regarding trading in the Shares and Bitcoin Futures via ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[68]

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (i) The procedures for the creation and redemption of Baskets (and that the Shares are not individually redeemable); (ii) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (iii) how information regarding the IIV and the Trust's NAV are disseminated; (iv) the risks involved in trading the Shares outside of Regular Trading Hours[69] when an updated IIV will not be calculated or publicly disseminated; (v) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (vi) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Shares. Members purchasing the Shares for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[70] in general and Section 6(b)(5) of the Act[71] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission has approved numerous series of Trust Issued Receipts,[72] including Commodity-Based Trust Shares,[73] to be listed on U.S. national securities exchanges. In order for any proposed rule change from an exchange to be approved, the Commission must determine that, among other things, the proposal is consistent with the requirements of Section 6(b)(5) of the Act, specifically including: (i) The requirement that a national securities exchange's rules are designed to prevent fraudulent and manipulative acts and practices;[74] and (ii) the requirement that an exchange proposal be designed, in general, to protect investors and the public interest.

The Exchange believes that the proposal is, in particular, designed to protect investors and the public interest. With the growth of OTC Bitcoin Funds over the past year, so too has grown the potential risk to U.S. investors. Premium volatility, high fees, insufficient disclosures, and technical hurdles are putting U.S. investor money at risk on a daily basis that could potentially be eliminated through access to a bitcoin ETP. As such, the Exchange believes that this proposal acts to limit the risk to U.S. investors that are increasingly seeking exposure to bitcoin through the elimination of premium volatility, the reduction of management fees through meaningful competition, the avoidance of risks associated with investing in operating companies that are imperfect proxies for bitcoin exposure, and protection from risk associated with custodying spot bitcoin by providing direct, 1-for-1 exposure to bitcoin in a regulated, transparent, exchange-traded vehicle.

The Exchange also believes that this proposal is consistent with the requirements of Section 6(b)(5) of the Act and that it has sufficiently demonstrated that, on the whole, the manipulation concerns previously articulated by the Commission are sufficiently mitigated to the point that they are outweighed by quantifiable investor protection issues that would be resolved by approving this proposal. Specifically, the Exchange believes that the significant increase in trading volume in Bitcoin Futures, the growth of liquidity at the inside in the spot market for bitcoin, and certain features of the Shares and the Benchmark mitigate potential manipulation concerns to the point that the investor protection issues that have arisen from the rapid growth of over-the-counter bitcoin funds since the Commission last reviewed an exchange proposal to list and trade a bitcoin ETP, including premium volatility and management fees, should be the central consideration as the Commission determines whether to approve this proposal.

(i) Designed To Prevent Fraudulent and Manipulative Acts and Practices

In order to meet this standard in a proposal to list and trade a series of Commodity-Based Trust Shares, the Commission requires that an exchange demonstrate that there is a comprehensive surveillance-sharing agreement in place[75] with a regulated

[68] For a list of the current members and affiliate members of ISG, *see www.isgportal.com*.

[69] Regular Trading Hours is the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[70] 15 U.S.C. 78f.

[71] 15 U.S.C. 78f(b)(5).

[72] *See* Exchange Rule 14.11(f).

[73] Commodity-Based Trust Shares, as described in Exchange Rule 14.11(e)(4), are a type of Trust Issued Receipt.

[74] As the Exchange has stated in a number of other public documents, it continues to believe that bitcoin is resistant to price manipulation and that ''other means to prevent fraudulent and manipulative acts and practices'' exist to justify dispensing with the requisite surveillance sharing agreement. The geographically diverse and continuous nature of bitcoin trading render it difficult and prohibitively costly to manipulate the price of bitcoin. The fragmentation across bitcoin platforms, the relatively slow speed of transactions, and the capital necessary to maintain a significant presence on each trading platform make manipulation of bitcoin prices through continuous trading activity challenging. To the extent that there are bitcoin exchanges engaged in or allowing wash trading or other activity intended to manipulate the price of bitcoin on other markets, such pricing does not normally impact prices on other exchange because participants will generally ignore markets with quotes that they deem non-executable. Moreover, the linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin price on any single venue would require manipulation of the global bitcoin price in order to be effective. Arbitrageurs must have funds distributed across multiple trading platforms in order to take advantage of temporary price dislocations, thereby making it unlikely that there will be strong concentration of funds on any particular bitcoin exchange or OTC platform. As a result, the potential for manipulation on a trading platform would require overcoming the liquidity supply of such arbitrageurs who are effectively eliminating any cross-market pricing differences.

[75] As previously articulated by the Commission, ''The standard requires such surveillance-sharing agreements since ''they provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a manipulation if it were to occur.'' The Commission has emphasized that it is essential for an exchange listing a derivative securities product to enter into a surveillance- sharing agreement with markets trading underlying securities for the listing exchange to have the ability to obtain information necessary to detect, investigate, and deter fraud and market manipulation, as well as violations of exchange rules and applicable federal securities laws and rules. The hallmarks of a surveillance-sharing agreement are that the agreement provides for the sharing of information about market trading activity, clearing activity, and customer identity; that the parties to the agreement have reasonable ability to obtain access to and produce requested information; and that no existing rules, laws, or practices would impede one party to the agreement from obtaining this information from, or producing

market of significant size. Both the Exchange and CME are members of ISG.[76] The only remaining issue to be addressed is whether the Bitcoin Futures market constitutes a market of significant size, which the Exchange believes that it does. The terms ''significant market'' and ''market of significant size'' include a market (or group of markets) as to which: (a) There is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to manipulate the ETP, so that a surveillance-sharing agreement would assist the listing exchange in detecting and deterring misconduct; and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.[77]

The Commission has also recognized that the ''regulated market of significant size'' standard is not the only means for satisfying Section 6(b)(5) of the act, specifically providing that a listing exchange could demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement.[78]

(a) Manipulation of the ETP

The significant growth in Bitcoin Futures across each of trading volumes, open interest, large open interest holders, and total market participants since the Wilshire Phoenix Disapproval was issued are reflective of that market's growing influence on the spot price, which according to the academic research cited above, was already leading the spot price in 2018 and 2019. Where Bitcoin Futures lead the price in the spot market such that a potential manipulator of the bitcoin spot market (beyond just the constituents of the Benchmark[79]) would have to participate in the Bitcoin Futures market, it follows that a potential manipulator of the Shares would similarly have to transact in the Bitcoin Futures market because the Benchmark is based on spot prices. Further, the Trust only allows for in-kind creation and redemption, which, as further described below, reduces the potential for manipulation of the Shares through manipulation of the Benchmark or any of its individual constituents, again emphasizing that a potential manipulator of the Shares would have to manipulate the entirety of the bitcoin spot market, which is led by the Bitcoin Futures market. As such, the Exchange believes that part (a) of the significant market test outlined above is satisfied and that common membership in ISG between the Exchange and CME would assist the listing exchange in detecting and deterring misconduct in the Shares.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

The Exchange also believes that trading in the Shares would not be the predominant force on prices in the Bitcoin Futures market (or spot market) for a number of reasons, including the significant volume in the Bitcoin Futures market, the size of bitcoin's market cap (approximately $1 trillion), and the significant liquidity available in the spot market. In addition to the Bitcoin Futures market data points cited above, the spot market for bitcoin is also very liquid. According to data from CoinRoutes from February 2021, the cost to buy or sell $5 million worth of bitcoin averages roughly 10 basis points with a market impact of 30 basis points.[80] For a $10 million market order, the cost to buy or sell is roughly 20 basis points with a market impact of 50 basis points. Stated another way, a market participant could enter a market buy or sell order for $10 million of bitcoin and only move the market 0.5%. More strategic purchases or sales (such as using limit orders and executing through OTC bitcoin trade desks) would likely have less obvious impact on the market—which is consistent with MicroStrategy, Tesla, and Square being able to collectively purchase billions of dollars in bitcoin. As such, the combination of Bitcoin Futures leading price discovery, the overall size of the bitcoin market, and the ability for market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact will help prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or Bitcoin Futures markets, satisfying part (b) of the test outlined above.

(c) Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that ''other means to prevent fraudulent and manipulative acts and practices'' are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Exchange believes that such conditions are present. Specifically, the significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin mean that attempting to move the price of bitcoin is costly and has grown more expensive over the past year. In January 2020, for example, the cost to buy or sell $5 million worth of bitcoin averaged roughly 30 basis points (compared to 10 basis points in 2/2021) with a market impact of 50 basis points (compared to 30 basis points in 2/2021).[81] For a $10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in 2/2021) with a market impact of 80 basis points (compared to 50 basis points in 2/2021). As the liquidity in the bitcoin spot market increases, it follows that the impact of $5 million and $10 million orders will continue to decrease the overall impact in spot price.

Additionally, offering only in-kind creation and redemption will provide unique protections against potential attempts to manipulate the Shares. While the Sponsor believes that the Benchmark which it uses to value the Trust's bitcoin is itself resistant to manipulation based on the methodology further described below, the fact that creations and redemptions are only available in-kind makes the manipulability of the Benchmark significantly less important. Specifically, because the Trust will not accept cash to buy bitcoin in order to create new shares or, barring a forced redemption of the Trust or under other extraordinary circumstances, be forced to sell bitcoin to pay cash for redeemed shares, the price that the Sponsor uses to value the Trust's bitcoin is not particularly important.[82] When

it to, the other party.'' The Commission has historically held that joint membership in ISG constitutes such a surveillance sharing agreement. *See* Wilshire Phoenix Disapproval.

[76] For a list of the current members and affiliate members of ISG, *see www.isgportal.com*.

[77] *See* Wilshire Phoenix Disapproval.

[78] *See* Winklevoss Order at 37580. The Commission has also specifically noted that it ''is not applying a ''cannot be manipulated'' standard; instead, the Commission is examining whether the proposal meets the requirements of the Exchange Act and, pursuant to its Rules of Practice, places the burden on the listing exchange to demonstrate the validity of its contentions and to establish that the requirements of the Exchange Act have been met. *Id*. at 37582.

[79] As further described below, the ''Benchmark'' for the Fund is the MVIS® CryptoCompare Bitcoin Benchmark Rate. The current exchange composition of the Benchmark is Bitstamp, Coinbase, Gemini, itBit and Kraken, which are the same constituents that compose the CME CF Bitcoin Reference Rate.

[80] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[81] These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

[82] While the Benchmark will not be particularly important for the creation and redemption process, it will be used for calculating fees.

authorized participants are creating with the Trust, they need to deliver a certain number of bitcoin per share (regardless of the valuation used) and when they're redeeming, they can similarly expect to receive a certain number of bitcoin per share. As such, even if the price used to value the Trust's bitcoin is manipulated (which the Sponsor believes that its methodology is resistant to), the ratio of bitcoin per Share does not change and the Trust will either accept (for creations) or distribute (for redemptions) the same number of bitcoin regardless of the value. This not only mitigates the risk associated with potential manipulation, but also discourages and disincentivizes manipulation of the Benchmark because there is little financial incentive to do so.

Commodity-Based Trust Shares

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 14.11(e)(4). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Commodity-Based Trust Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Trust or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12. The Exchange may obtain information regarding trading in the Shares and listed bitcoin derivatives via the ISG, from other exchanges who are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

Availability of Information

The Exchange also believes that the proposal promotes market transparency in that a large amount of information is currently available about bitcoin and will be available regarding the Trust and the Shares. In addition to the price transparency of the Benchmark, the Trust will provide information regarding the Trust's bitcoin holdings as well as additional data regarding the Trust. The Trust will provide an IIV per Share updated every 15 seconds, as calculated by the Exchange or a third-party financial data provider during the Exchange's Regular Trading Hours (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during Regular Trading Hours to reflect changes in the value of the Trust's bitcoin holdings during the trading day.

The IIV disseminated during Regular Trading Hours should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the Exchange's Regular Trading Hours by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The website for the Trust, which will be publicly accessible at no charge, will contain the following information: (a) The current NAV per Share daily and the prior business day's NAV and the reported closing price; (b) the BZX Official Closing Price in relation to the NAV as of the time the NAV is calculated and a calculation of the premium or discount of such price against such NAV; (c) data in chart form displaying the frequency distribution of discounts and premiums of the Official Closing Price against the NAV, within appropriate ranges for each of the four previous calendar quarters (or for the life of the Trust, if shorter); (d) the prospectus; and (e) other applicable quantitative information. The Trust will also disseminate the Trust's holdings on a daily basis on the Trust's website. The price of bitcoin will be made available by one or more major market data vendors, updated at least every 15 seconds during Regular Trading Hours. Information about the Benchmark, including key elements of how the Benchmark is calculated, will be publicly available at *www.mvis-indices.com/*.

The NAV for the Trust will be calculated by the Administrator once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA.

Quotation and last sale information for bitcoin is widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters, as well as the Benchmark. Information relating to trading, including price and volume information, in bitcoin is available from major market data vendors and from the exchanges on which bitcoin are traded. Depth of book information is also available from bitcoin exchanges. The normal trading hours for bitcoin exchanges are 24 hours per day, 365 days per year.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

*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 purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or 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 Exchange consents, the Commission will:

A. By order approve or disapprove such 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–CboeBZX–2021–019 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR–CboeBZX–2021–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2021–019, and should be submitted on or before April 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[83]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–05670 Filed 3–18–21; 8:45 am]

**BILLING CODE 8011–01–P**

[83] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–91324; File No. SR–IEX–2021–03]**

## Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Allow Retail Orders To Trade With Certain Aggressively Priced Displayed Odd Lot Orders

March 15, 2021.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 1, 2021, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] IEX is filing with the Commission a proposed rule change to how Retail orders interact with displayed odd lot orders.

The text of the proposed rule change is available at the Exchange's website at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this proposed rule change is to modify the manner in which Retail orders[6] interact with displayed odd lot orders, to make it consistent with the manner in which the Exchange otherwise handles displayed odd lot orders.[7] Specifically, as detailed below, IEX proposes to change the rules regarding Retail orders to allow them to execute against a displayed odd lot order priced more aggressively than the Midpoint Price.[8]

IEX will soon be implementing rule changes that modify the way it handles odd lot orders by allowing them to be displayed orders and to aggregate to form a protected quotation,[9] which include rule provisions that allow displayed buy (sell) orders to rest on the IEX Order Book[10] at prices more aggressive than both the NBB[11] (NBO[12]) and the Midpoint Price.[13] IEX's displayed odd lot rule filing included several related rule changes to prevent a displayed odd lot order that is a not protected quotation from resulting in a lock or cross of IEX's Order Book.[14] Specifically, IEX adjusted its non-displayed price sliding rules to adjust the price of non-displayed orders that would otherwise be locked or crossed by a displayed odd lot order, and changed its order execution rules to allow a displayed order previously subject to price sliding to match with a contra-side displayed odd lot order that the original order would have locked or crossed upon a subsequent repricing.[15]

IEX has identified an additional circumstance in which a displayed unprotected odd lot order could result in a suboptimal trading impact.

[6] *See* IEX Rules 11.190(b)(15) and 11.232(a)(2).

[7] IEX recently made an immediately effective rule filing to allow displayed odd lot orders on the Exchange. *See* Securities Exchange Act Release No. 90933 (January 15, 2021), 86 FR 6687 (January 22, 2021) (SR–IEX–2021–01).

[8] The term ''Midpoint Price'' shall mean the midpoint of the NBBO. *See* IEX Rule 1.160(t). The term ''NBBO'' shall mean the national best bid or offer, as set forth in Rule 600(b) of Regulation NMS under the Act, determined as set forth in IEX Rule 11.410(b).

[9] IEX currently expects to implement the rule changes to provide for displayed odd lots during the first quarter of 2021. *See https://iextrading.com/alerts/#/137* (January 29, 2021).

[10] *See* IEX Rule 1.160(p).

[11] *See* IEX Rule 1.160(u).

[12] *See* IEX Rule 1.160(u).

[13] *See* Securities Exchange Act Release No. 90933 (January 15, 2021), 86 FR 6687 (January 22, 2021) (SR–IEX–2021–01).

[14] *See supra* note 13 at 6689–90.

[15] *See supra* note 13 at 6689–90.

Specifically, a displayed unprotected odd lot order that is resting at a price more aggressive than the Midpoint Price (*i.e.* above the Midpoint Price in the case of a buy order and below the Midpoint Price in the case of a sell order) would effectively block a Retail order's access to orders resting at the Midpoint Price. Thus, IEX now proposes to make an analogous change to allow Retail orders to interact with displayed odd lot orders priced more aggressively than the Midpoint Price.

IEX introduced its Retail Price Improvement Program (''Retail Program'') in 2019.[16] IEX's Retail Program is designed to provide retail investors with meaningful price improvement opportunities by offering price improvement to Retail orders. Only Members [17] that the Exchange has approved as Retail Member Organizations (''RMO'') [18] may submit Retail orders to the Exchange on behalf of their retail customers.[19] Retail orders are Discretionary Peg [20] or Midpoint Peg [21] orders with a Time-in-Force of IOC or FOK, and that are only eligible to trade at the Midpoint Price. Restricting Retail orders to only execute at the Midpoint Price was designed to maximize their price improvement opportunities, while recognizing that in 2019, a large portion of IEX's resting liquidity was non-displayed orders eligible to execute at the Midpoint Price.[22]

Because displayed odd lot orders can book at prices more aggressive than the Midpoint Price, but Retail orders can only trade at the Midpoint Price, Retail orders could miss the opportunity to obtain even more price improvement that would be obtained by executing against an aggressively priced displayed odd lot order. By way of example, if the market is $10.10 by $10.20, and IEX has on its Order Book a displayed odd lot order to sell 50 shares at $10.13 and a non-displayed Midpoint Peg order to sell 100 shares at the Midpoint Price of $10.15, and IEX receives an incoming Retail order to buy 100 shares; the Retail order would not be able to match with the Midpoint Peg order at $10.15 because the displayed odd lot order has price priority to the Midpoint Peg order. However, the Retail order also cannot execute against the displayed odd lot order because a Retail order is only eligible to trade at the Midpoint Price. Therefore, the Retail order is not executable under current IEX rules and would be canceled.[23] If the Retail order could trade with the aggressively priced displayed odd lot order, 50 shares would execute with the displayed odd lot order at $10.13, and the remaining 50 shares would execute with the Midpoint Peg order at $10.15. Allowing the Retail order to match with the aggressively priced displayed odd lot order would offer greater price improvement for the 50 shares that matched at $10.13.

Therefore, IEX is proposing to modify IEX Rules 11.232(a)(2) and (e)(2) to provide that Retail orders are only eligible to trade at the Midpoint Price, with the exception that Retail orders can also trade with an aggressively priced displayed odd lot order priced on the far side of the Midpoint Price. In other words, as proposed, a Retail order to sell (buy) can match with any order to buy (sell) at the Midpoint Price or a displayed odd lot order to buy (sell) priced at or between the NBO (NBB) and the Midpoint Price.

IEX notes that this proposed rule change is consistent with the rules of the other exchanges with retail price improvement programs, none of which restrict their retail orders from only executing at the Midpoint Price.[24]

IEX is also proposing a conforming amendment to Rule 11.232(e)(3) to reflect that an aggressively priced displayed odd lot order will execute before any non-displayed Midpoint Price orders. In addition, IEX is proposing to add Example 4 at the end of Rule 11.232, to demonstrate how an aggressively priced displayed odd lot order will trade with a Retail order before the Retail order matches with any non-displayed Midpoint Price orders.

Finally, IEX is proposing to correct two typographical errors: Add a missing ''$'' in three places in Examples 1, 2, and 3; and correct the reference in Example 3, so it cites IEX Rule 11.220(a)(c)(vii) instead of Rule 11.220(a)(c)(viii).[25]

2. Statutory Basis

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),[27] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change to allow Retail orders to trade with an aggressively priced displayed odd lot order is consistent with the protection of investors and the public interest because it is designed to increase the opportunities for retail investors to obtain price improvement.

Furthermore, as discussed in the Purpose section, IEX believes that the proposed rule change is consistent with the protection of investors and the public interest because it is designed to further incentivize the entry of additional Retail orders and displayed odd lot orders on IEX by providing the opportunity for Retail orders to obtain greater price improvement and additional execution opportunities against displayed odd lot orders, while offering increased execution opportunities to displayed odd lot orders. Moreover, because displayed odd lots can result from displayed limit orders of more than odd lot size, the Exchange believes that the proposed rule change is also designed to incentivize the entry of displayed limit orders generally by providing such increased execution opportunities to displayed odd lot orders. IEX believes that, to the extent the proposed rule change is successful in incentivizing the entry of additional Retail orders and displayed odd lot and limit orders on IEX it will provide increased liquidity on the Exchange to the benefit of all market participants, thereby supporting the purposes of the Act to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Additionally, IEX believes that the proposed corrections to IEX Rule 11.232 further the purposes of the Act because they will provide greater clarity and consistency to the IEX Rule Book thereby reducing the potential for confusion of any market participants. Specifically, the proposed typographical

[16] *See* Securities Exchange Act Release No. 86619 (August 9, 2019), 84 FR 41769 (August 15, 2019) (SR–IEX–2019–05) (SEC order approving IEX's Retail Price Improvement Program).

[17] *See* IEX Rule 1.160(s).

[18] *See* IEX Rule 11.232(a)(1).

[19] For a Member to be approved as a RMO, it must complete an application and submit materials reflecting that it either conducts a retail business or routes retail orders on behalf of another broker-dealer. *See* IEX Rule 11.232(b).

[20] *See* IEX Rule 11.190(b)(10).

[21] *See* IEX Rule 11.190(b)(9).

[22] *See supra* note 16.

[23] *See* IEX Rule 11.230(a) (a non-executable, non-routable order will be canceled).

[24] *See* NYSE Rule 7.44(a)(3); Cboe BYX Rule 11.24 (a)(2); Nasdaq BX Rule 4702(b)(6)(A).

[25] *See supra* note 13 (renumbering Rule 11.220(a)(c)(viii) as Rule 11.220(a)(c)(vii)).

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

fixes will prevent any confusion to market participants about the application of those examples, provide clarity, and reduce any possible confusion to market participants.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, and as discussed in the Statutory Basis section, the proposal is designed to enhance IEX's competitiveness with other markets by further incentivizing the entry of additional displayed odd lot and limit orders on IEX by providing additional execution opportunities for displayed odd lot orders and offering increased price improvement to Retail orders, thereby increasing the overall liquidity profile of the Exchange to the benefit of all market participants. IEX also believes that conforming the Exchange's treatment of Retail orders with that of other exchanges with retail price improvement programs would promote intermarket competition for increasingly sought-after retail investor orders, to the benefit of retail customers in particular, and the market as a whole.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. While only Members approved by the Exchange to be RMOs can submit Retail orders to the Exchange, those differences are not based on the type of Member entering orders but on whether the order is for a retail customer, and there is no restriction on whether a Member can handle retail customer orders. Further, any Member can submit a displayed odd lot or limit order and would therefore benefit if aggressively priced displayed odd lot orders have more opportunities to execute because they can now trade with Retail orders.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A) [28] of the Act and Rule 19b–4(f)(6) [29] thereunder. Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [30] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[31] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that IEX can implement the proposed rule change concurrently with implementation of its displayed odd lot rule filing, which is anticipated within the next several weeks. The Exchange has represented that the proposal is substantially similar to the functionality of other exchanges and will provide the opportunity for Retail orders to obtain greater price improvement by allowing them to execute against displayed odd lot orders priced more aggressively than the Midpoint Price. The Exchange further states that waiver of the operative delay will allow it to synchronize the timing for implementation of the proposed rule change with the displayed odd lot rule filing implementation. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because the proposal does not raise any novel issues and will allow Retail orders to benefit from more opportunities to receive executions at improved prices. Waiver of the operative delay will allow the Exchange to offer this benefit to investors without undue delay when it implements its new displayed odd lot functionality. For these reasons, the Commission hereby waives the 30-day operative delay.[32]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [33] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2021–03 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR–IEX–2021–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the

[28] 15 U.S.C. 78s(b)(3)(A).

[29] 17 CFR 240.19b–4(f)(6).

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6)(iii).

[32] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[33] 15 U.S.C. 78s(b)(2)(B).

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–IEX–2021–03, and should be submitted on or before April 9, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–05675 Filed 3–18–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SMALL BUSINESS ADMINISTRATION

**[License No. 03/03–0241]**

### Surrender of License of Small Business Investment Company; Argosy Investment Partners III, L.P.

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 03/03–0241 issued to Argosy Investment Partners III, L.P. said license is hereby declared null and void.

**Thomas G. Morris,**

*Acting Associate Administrator, Director, Office of SBIC Liquidation, Office of Investment and Innovation.*

[FR Doc. 2021–05678 Filed 3–18–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF STATE

**[Public Notice 11378]**

### Advisory Committee on Historical Diplomatic Documentation—Notice of Virtual Open Meeting for June 14, 2021

The Advisory Committee on Historical Diplomatic Documentation will meet on June 14 in a virtual open session to discuss the status of the production of the *Foreign Relations* series and any other matters of concern to the Committee.

The Committee will meet in open session from 10 a.m. until noon through a virtual platform TBD. Members of the public planning to attend the virtual meeting should RSVP to Julie Fort at *FortJL@state.gov.* RSVP and requests for reasonable accommodation should be sent not later than May 28, 2021. The platform type and instructions on how to join the virtual meeting will be provided upon receipt of RSVP. Note that requests for reasonable accommodation received after May 28 will be considered but might not be possible to fulfill.

Questions concerning the meeting should be directed to Adam M. Howard, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20372, *history@state.gov.*

**Renée Goings,**

*Deputy Director, Office of the Historian.*

[FR Doc. 2021–05642 Filed 3–18–21; 8:45 am]

**BILLING CODE 4710–34–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2020–0202]**

### Agency Information Collection Activities; Revision of an Approved Information Collection Request: Motor Carrier Records Change Form

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The purpose of this ICR titled, ''Motor Carrier Records Change Form,'' is to collect information required by the Office of Registration (MC-RS) to process name changes, address changes, and reinstatements of operating authority for motor carriers, freight forwarders, and brokers.

**DATES:** Please send your comments by April 19, 2021. OMB must receive your comments by this date in order to act quickly on the ICR.

**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:** Jeff Secrist, Chief, Office of Registration & Safety Information, West Building, 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: (202) 385–2367; Email address: *jeff.secrist@dot.gov.* Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Motor Carrier Records Change Form.

*OMB Control Number:* 2126–0060.

*Type of Request:* Renewal and revision.

*Respondents:* For-hire motor carriers, brokers, and freight forwarders.

*Estimated Number of Respondents:* 27,122.

*Estimated Time per Response:* 15 minutes per response.

*Expiration Date:* August 31, 2021.

*Frequency of Response:* On occasion.

*Estimated Total Annual Burden:* 6,781 hours [27,122 responses × 0.25 hours per response].

### Background

The Federal Motor Carrier Safety Administration (FMCSA) registers for-hire motor carriers under 49 U.S.C. 13902, surface freight forwarders under 49 U.S.C. 13903, and property brokers under 49 U.S.C. 13904. Each registration is effective from the date specified under 49 U.S.C. 13905(c). 49 CFR 365.413, ''Procedures for changing the name or business form of a motor carrier, freight forwarder, or property broker,'' states that motor carriers, forwarders, and brokers must submit the required information to FMCSA's Office of Registration (MC-RS) requesting the change. 49 CFR 360.3(f) mentions fees that FMCSA collects for ''petition for reinstatement of revoked operating authority,'' but does not provide any specifics for the content that petition should take.

Motor carriers, freight forwarders, and property brokers are required to use Form MCSA–5889 to request a name or address change and to request reinstatement of a revoked operating authority. Respondents can submit the form online through the Licensing and Insurance (L&I) website, by fax, or by mail. According to data collected between 2017 and 2019, annually, 1 percent of forms are submitted by mail; 32 percent are submitted by fax; and 67 percent are submitted online. The information collected is then entered in the L&I database by FMCSA staff.

[34] 17 CFR 200.30–3(a)(12), (59).

Form MCSA–5889 enables FMCSA to maintain up-to-date records so that the Agency can recognize the entity in question in case of enforcement actions or other procedures required to ensure that the carrier is fit, willing, and able to provide for-hire transportation services, and so that entities whose operating authority has been revoked can resume operation if they are not otherwise blocked from doing so. This multi-purpose form, filed by registrants on a voluntary, as-needed basis, simplifies the process of gathering the information needed to process the entities' requests in a timely manner, with the least amount of effort for all parties involved.

To reduce burden on respondents, increase consistency among FMCSA forms, and to ensure regulatory compliance, FMCSA removed and added the following questions from the currently approved Form MCSA–5889:

1. Added a Yes/No question: ''Do you currently have, or have you had within the last three years of the date of this application, relationships involving common stock, common ownership, common management, common control or familial relationships with any FMCSA-regulated entities?'' The purpose of this is to close the affiliation disclosure loophole. If the respondent answers ''Yes'', they must then report the affiliate's USDOT number, MC/FF/MX number, legal name, doing business as name (if applicable), and current safety rating.

2. Added the Applicant's Oath. The applicant must read the oath, print their name and title, and sign the form. The purpose of this addition is to increase accountability and make Form MCSA–5889 consistent with similar FMCSA forms.

3. Removed one question asking whether the applicant or its representative completed the form. This was removed because the information is not necessary.

4. Removed three questions: name, title, and signature. This was done because, with the addition of the Applicant's Oath, these questions became redundant.

The form prompts users to report the following data points (whichever are relevant to their records change request):

- Requestor's fax number, email address, and applicant's oath.
- Entity's legal/doing business as names, USDOT number, docket MC/MX/FX number, current street address, and phone numbers.
- Affiliations with FMCSA-licensed entities.
- Requested changes to the entity's address.
- Requested changes to the entity's name and/or ownership, management or control.
- Type(s) of operating authority the entity wishes to reinstate.
- Credit card information (name, number, expiration date, address, date) if filing a name change or reinstatement.

FMCSA published a 60-day notice in the **Federal Register** on November 25, 2020, (85 FR 75402), announcing the Agency's intent to submit the *Motor Carrier Records Change Form* to OMB for approval, and requesting comments from the public. No comments we received.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FMCSA to perform it's functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87.

**Thomas P. Keane,**

*Associate Administrator, Office of Research and Registration.*

[FR Doc. 2021–05720 Filed 3–18–21; 8:45 am]

BILLING CODE 4910–EX–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2020–0178]**

### Agency Information Collection Activities; Approval of a Revision of an Information Collection Request: Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The information collected will be used to help ensure that motor carriers of passengers and property maintain appropriate levels of financial responsibility to operate on public highways.

**DATES:** Please send your comments by April 19, 2021. OMB must receive your comments by this date in order to act quickly on the ICR.

**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:** Mr. Jeff Secrist, Office of Registration, Chief, Registration, Licensing and Insurance Division, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–385–2367; email: *jeff.secrist@dot.gov.* Office hours are from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property.

*OMB Control Number:* 2126–0008.

*Type of Request:* Revision of a currently-approved information collection.

*Respondents:* Insurance underwriters for insurance companies and financial specialists for surety companies of motor carriers of property (Forms MCS–90 and MCS–82) and passengers (Forms MCS–90B and MCS–82B), and motor carrier compliance officers employed by motor carriers to store and maintain insurance and/or surety bond documentation in motor carrier vehicles.

*Estimated Number of Respondents:* 140,074.

*Estimated Time per Response:* FMCSA estimates that it takes 2 minutes to complete the Endorsement for Motor Carrier Policies of Insurance for Public Liability under Sections 29 and 30 of the Motor Carrier Act of 1980 (Form MCS–90 for property carriers) and Endorsement for Motor Carrier Policies of Insurance for Public Liability under Section 18 of the Bus Regulatory Reform Act of 1982 (MCS–90B for passenger carriers) or the Motor Carrier Public Liability Surety Bond under Sections 29 and 30 of the Motor Carrier Act of 1980 (Form MCS–82 for property carriers) and Motor Carrier Public Liability Surety Bond under Section 18 of the Bus Regulatory Reform Act of 1982 (MCS–82B for passenger carriers); 1

minute to store/maintain documents at the motor carrier's principal place of business [49 CFR 387.7(d); 49 CFR 387.31(d)]; and 1 minute per vehicle to place the respective document on board the vehicle as required for non U.S.-domiciled carriers with the exception of Non North American(NNA) who are required to maintain a copy at their Principal Place of Business (PPOB) and file with FMCSA[49 CFR 387.7(f); 49 CFR 387.31(f) 49 CFR part 387.7(e)(2)].

*Expiration Date:* March 31, 2021.

*Frequency of Response:* On a one-time basis or as needed.

*Estimated Total Annual Burden:* 4,146 hours.

FMCSA published the 60-day **Federal Register** notice on October 8, 2020 (85 FR 63648), and received 2 comments in response. The first comment, from the National School Transportation Association (NSTA), supports the proposal to renew the MCS–82B and MCS–90B information collection to verify proof of motor carrier financial responsibility. The second comment, from The American Property Casualty Insurance Association (APCIA), raised three issues: (1) That [t]he MCS–90 form is sometimes erroneously treated by trucking regulators as a simple certification of insurance coverage'' and that extension of an insurer's liability ''could be easily fixed by limiting the MCS–90 to apply only to accidents occurring inside the United States . . .''; (2) that keeping the expiration date on the financial responsibility forms creates confusion; and (3) that the unintended consequence related to changes of the MCS–90 web pages is that some users believe a change in the web page equates to a change in the MCS–90 itself.

With regard to the first issue, Property Casualty Insurers of America (PCI), a predecessor to APCIA, previously filed a Petition for Rulemaking with FMCSA pertaining to the extension of MCS–90 liability to Mexico. However, given the decision in *Lincoln General Ins. Co.* v. *De La Luz Garcia,* 501 F.3d 436 (5th Cir. 2007) that effectively granted (PCI) the relief it was seeking in its Petition for Rulemaking, FMCSA decided not to address PCI's petition further at that time. The *Minimum Levels of Financial Responsibility for Motor Carriers,* is noted in the **Federal Register** Notice 74 FR 27485, 27487 dated (June 10, 2009). Therefore, given that APCIA's concerns have been previously addressed, FMCSA does not believe changing the MCS–90 is necessary. Additionally, FMCSA does not believe that even if a change was necessary that an ICR proceeding is an appropriate forum for such a change. FMCSA welcomes discussing APCIA's concerns informally and is happy to have a meeting with APCIA to discuss further. With regard to the comment on the expiration date, the commenter noted that the regulation requires that the MCS–90 and its accompanying insurance filing be continuous until canceled, but that having expiration dates on the forms ''creates confusion and could change the meaning of the endorsement in the eyes of a court. It needlessly causes motor carriers to worry that their insurance coverage might not satisfy federal requirements, especially as this bureaucratic date often falls behind its intended expiration.'' APCIA goes on to argue that the date often confuses law enforcement as to if the date refers to the insurer's insurance policy rather than the form. FMCSA agrees with the comment and requests permission to exclude the expiration date from all forms.

With regard to the comment on website updates, FMCSA will look into ensuring that any future updates to our web page are more clear.

*Background:* The Secretary of Transportation is responsible for implementing regulations which establish minimum levels of financial responsibility for: (1) For-hire motor carriers of property to cover public liability, property damage, and environmental restoration, and (2) for-hire motor carriers of passengers to cover public liability and property damage. The forms MCS–90/90B and forms MCS–82/82B contain the minimum amount of information necessary to document that a motor carrier of property or passengers has obtained, and has in effect, the minimum levels of financial responsibility as set forth in applicable regulations (49 CFR 387.9 (motor carriers of property) and 49 CFR 387.33T (motor carriers of passengers)). FMCSA and the public can verify that a motor carrier of property or passengers has obtained, and has in effect, the required minimum levels of financial responsibility by reviewing the information enclosed within these documents.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FMCSA to perform its functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87.

**Thomas P. Keane,**

*Associate Administrator, Office of Research and Registration.*

[FR Doc. 2021–05718 Filed 3–18–21; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

**[Docket ID Number DOT–OST–2014–0031]**

### Agency Information Collection; Activity Under OMB Review; Report of Financial and Operating Statistics for Small Aircraft Operators

**AGENCY:** Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of BTS collecting financial, traffic and operating statistics from small certificated and commuter air carriers. Small certificated air carriers (operate aircraft with 60 seats or less or with 18,000 pounds of payload capacity or less) currently must file the two quarterly schedules listed below:

F–1 *Report of Financial Data,*

F–2 *Report of Aircraft Operating Expenses and Related Statistics,* and

Commuter air carriers must file the Schedule F–1 *Report of Financial Data,*

Commenters should address whether BTS accurately estimated the reporting burden and if there are other ways to enhance the quality, utility, and clarity of the information collected.

**DATES:** Written comments should be submitted by May 18, 2021.

**FOR FURTHER INFORMATION CONTACT:** Cecelia Robinson, Office of Airline Information, RTS–42, Room E34–110, OST–R, BTS,1200 New Jersey Avenue SE, Washington, DC 20590–0001, Telephone Number (202) 366–4405, Fax Number (202) 366–3383 or EMAIL *cecelia.robinson@dot.gov.*

Jennifer Rodes, Office of Airline Information, RTS–42, Room E32–103, OST–R, BTS, 1200 New Jersey Avenue SE, Washington DC 20590–0001, Telephone Number (202) 366–8513, Fax Number (202) 366–3383 or EMAIL *Jennifer.rodes@dot.gov.*

*Comments:* Comments should identify the associated OMB approval #2138–0009 and Docket ID Number DOT–OST–2014–0031. Persons wishing the Department to acknowledge receipt of

their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2138–0009, Docket—DOT–OST–2014–0031. The postcard will be date/time stamped and returned.

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number DOT–OST–2014–0031 by any of the following methods:

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

*Mail:* Docket Services: U.S. Department of Transportation, 1200 New Jersey Avenue SE West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

*Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

*Fax:* 202–366–3383.

*Instructions:* Identify docket number, DOT–OST–2014–0031, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the dockets.

*Electronic Access:* You may access comments received for this notice at *http://www.regulations.gov,* by searching docket DOT–OST–2014–0031.

**SUPPLEMENTARY INFORMATION:**

*OMB Approval No.* 2138–0009.

*Title:* Report of Financial and Operating Statistics for Small Aircraft Operators.

*Form No.:* BTS Form 298–C.

*Type Of Review:* Extension of a currently approved collection for the financial data.

*Respondents:* Small certificated (22) and commuter air carriers (41).

Schedule F1:

*Number of Respondents:* 63.
*Number of Annual Responses:* 252.
*Total Burden per Response:* 4 hours.
*Total Annual Burden:* 1,008 hours.

Schedule F2:

*Number of Respondents:* 22.
*Number of Annual Responses:* 88.
*Total Burden per Response:* 12 hours.
*Total Annual Burden:* 1,056 hours.

*Needs and Uses:* Program uses for Form 298–C financial data are as follows:

**Mail Rates**

The Department of Transportation sets and updates the Intra-Alaska Bush mail rates based on carrier aircraft operating expense, traffic, and operational data. Form 298–C cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

**Essential Air Service**

DOT often has to select a carrier to provide a community's essential air service. The selection criteria include historic presence in the community, reliability of service, financial stability and cost structure of the air carrier.

**Carrier Fitness**

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 298–C for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

The quarterly financial submissions by commuter and small certificated air carriers are used in determining each carrier's continuing fitness to operate. Section 41738 of Title 49 of the United States Code requires DOT to find all commuter and small certificated air carriers fit, willing, and able to conduct passenger service as a prerequisite to providing such service to an eligible essential air service point. In making a fitness determination, DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier begins conducting flight operations, DOT is required to monitor its continuing fitness.

Senior DOT officials must be kept fully informed and advised of all current and developing economic issues affecting the airline industry. In preparing financial condition reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers prepared for senior DOT officials may use the same information.

The *Confidential Information Protection and Statistical Efficiency Act of 2002* (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on March 15, 2021.

**William Chadwick, Jr.,**

*Director, Office of Airline Information, Bureau of Transportation Statistics.*

[FR Doc. 2021–05730 Filed 3–18–21; 8:45 am]

BILLING CODE 4910–9X–P

## DEPARTMENT OF THE TREASURY

### Proposed Collection; Comment Request

**AGENCY:** Departmental Offices; Department of the Treasury.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on the revision of a currently approved information collection that is to be proposed for approval by the Office of Management and Budget. The Office of International Affairs of the Department of the Treasury is soliciting comments concerning Treasury International Capital Form D, ''Report of Holdings of, and Transactions in, Financial

Derivatives Contracts with Foreign Residents''.

**DATES:** Written comments should be received on or before May 18, 2021 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 1050, 1500 Pennsylvania Avenue NW, Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (*comments2TIC@treasury.gov*), or by telephone (cell: 202–923–0518).

**FOR FURTHER INFORMATION CONTACT:** Copies of the proposed form and instructions are available on the Treasury's TIC Forms web page, *TIC D Form and Instructions √ U.S. Department of the Treasury* . Requests for additional information should be directed to Mr. Wolkow by email (*comments2TIC@treasury.gov*), or by telephone (cell: 202–923–0518).

**SUPPLEMENTARY INFORMATION:** *Title:* Treasury International Capital Form D, ''Report of Holdings of, and Transactions in, Financial Derivatives Contracts with Foreign Residents.''

*OMB Control Number:* 1505–0199.

*Abstract:* Form D is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128), and is designed to collect timely information on international capital movements other than direct investment by U.S. persons. Form D is a quarterly report used to cover holdings and transactions in derivatives contracts undertaken between foreign resident counterparties and major U.S.-resident participants in derivatives markets. This information is used by the U.S. Government in the formulation of international financial and monetary policies and for the preparation of the U.S. balance of payments accounts and the U.S. international investment position.

*Current Actions:* No changes in the form or instructions are being proposed at this time. Some clarifications and format changes may be made to improve the instructions.

*Type of Review:* Renewal without change of a currently approved collection.

*Affected Public:* Business or other for profit organizations.

Form D (1505–0199).

*Estimated Number of Respondents:* 29.

*Estimated Average Time per Respondent:* Thirty (30) hours per respondent per filing.

*Estimated Total Annual Burden Hours:* 3,480 hours, based on 4 reporting periods per year.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form D is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

**Dwight Wolkow,**

*Administrator, International Portfolio Investment Data Reporting Systems.*

[FR Doc. 2021–05753 Filed 3–18–21; 8:45 am]

**BILLING CODE 4810–AK–P**

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## DEPARTMENT OF THE TREASURY

### Proposed Collection; Comment Request

**AGENCY:** Departmental Offices; Department of the Treasury.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on the revision of a currently approved information collection that is to be proposed for approval by the Office of Management and Budget. The Office of International Affairs of the Department of the Treasury is soliciting comments concerning Treasury International Capital Form S, ''Purchases and Sales of Long-Term Securities by Foreign Residents.''

**DATES:** Written comments should be received on or before May 18, 2021 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 1050, 1500 Pennsylvania Avenue NW, Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (*comments2TIC@treasury.gov*), or by telephone (cell: 202–923–0518).

**FOR FURTHER INFORMATION CONTACT:** Copies of the proposed forms and instructions are available on the Treasury's TIC Forms web page, TIC S-Form and Instructions √ U.S. Department of the Treasury. Requests for additional information should be directed to Mr. Wolkow by email (*comments2TIC@treasury.gov*), or by telephone (cell: 202–923–0518).

**SUPPLEMENTARY INFORMATION:** *Title:* Treasury International Capital Form S, Purchases and Sales of Long-term Securities by Foreign-Residents.

*OMB Control Number:* 1505–0001.

*Abstract:* Form S is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128), and is designed to collect timely information on international portfolio capital movements. Form S is a monthly report used to cover transactions in long-term marketable securities undertaken *directly* with foreigners by banks, other depository institutions, brokers, dealers, underwriting groups, funds and other individuals and institutions. This information is used by the U.S. Government in the formulation of international financial and monetary policies and for the analysis of the U.S. balance of payments accounts.

*Current Actions:* No changes in the form or instructions are being proposed at this time. Some clarifications and format changes may be made to improve the instructions.

*Type of Review:* Renewal without change of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Form:* S (1505–0001).

*Estimated Number of Respondents:* 185

*Estimated Average Time per Respondent:* Six and three-fourth hours per respondent per filing. The estimated average time per filing varies from 11.8 hours for the approximately 30 major reporters to 5.9 hours for the other reporters.

*Estimated Total Annual Burden Hours:* 15,010 hours, based on 12 reporting periods per year.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form S is necessary for the proper

performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

**Dwight Wolkow,**

*Administrator, International Portfolio Investment Data Reporting Systems.*

[FR Doc. 2021–05755 Filed 3–18–21; 8:45 am]

**BILLING CODE 4810–AK–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Voluntary Service National Advisory Committee, Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App.2, that the Executive Committee of the VA Voluntary Service (VAVS) National Advisory Committee (NAC) will meet virtually on May 25, 2021. The meeting will begin at 12:00 p.m. Eastern Standard Time (EST) and end at 2:30 p.m. EST. You may call into the meeting by dialing 1–404–397–1596 and enter Access Code 199 780 2512. The meeting is open to the public.

The Committee, comprised of 53 major Veteran, civic, and service organizations, advises the Secretary, through the Under Secretary for Health, on the coordination and promotion of volunteer activities and strategic partnerships within VA health care facilities, in the community, and on matters related to volunteerism and charitable giving. The Executive Committee consists of 20 representatives from the NAC member organizations.

Agenda topics will include: NAC goals and objectives; review of minutes from the September 22, 2020, Executive Committee meeting; VAVS update on the Voluntary Service program's activities; Veterans Health Administration update, subcommittee reports; review of standard operating procedures; review of organization data; 2022 NAC annual meeting plans; and any new business.

No time will be allocated at this meeting for receiving oral presentations from the public. However, the public may submit written statements for the Committee's review to Dr. Sabrina C. Clark, Designated Federal Officer, Center for Development & Civic Engagement (formerly Voluntary Service (10BCOM1), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, or email at *Sabrina.Clark@VA.gov.* Any member of the public wishing to attend the meeting or seeking additional information should contact Dr. Clark at 202–461–7300.

Dated: March 16, 2021.

**Jelessa M. Burney,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2021–05788 Filed 3–18–21; 8:45 am]

**BILLING CODE P**

# FEDERAL REGISTER

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Part II

## Federal Communications Commission

47 CFR Part 1

Schedule of Application Fees of the Commission's Rules; Final Rule

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 1**

**[MD Docket No. 20–270; FCC 20–184; FRS 17412]**

## Schedule of Application Fees of the Commission's Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopts a new application fee schedule that significantly updates the Commission's previous fee schedule in both the type of applications and the processes involved under section 158 (c)(2) of the Communications Act of 1934, as amended (the Act).

**DATES:** Effective April 19, 2021.

**FOR FURTHER INFORMATION CONTACT:** Roland Helvajian, Office of Managing Director at (202) 418–0444.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order,* FCC 20–184, MD Docket No. 20–270, adopted on December 23, 2020 and released on December 29, 2020. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW, Washington, DC 20554, or by downloading the text from the Commission's website at *https://docs.fcc.gov/public/attachments/FCC-20-184A1.pdf.*

### I. Administrative Matters

*A. Final Regulatory Flexibility Analysis*

1. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this *Report and Order.* The FRFA is located at the end of this document.

*B. Final Paperwork Reduction Act of 1995 Analysis*

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

*C. Congressional Review Act*

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

1. Prior to adoption of the RAY BAUM'S Act, the Commission's authority to make changes to application fees was limited to biannual adjustments based on changes in the Consumer Price Index (CPI); the Commission was precluded from adding or deleting application fee categories.[1] A filing not listed on the section 8 application fee schedule did not have a fee unless such a fee was added by Congress. Congress also provided that certain categories of applicants should receive exemptions in section 8(d) of the Act. Such statutory exempt entities included nonprofit entities licensed in certain radio services, as well as all governmental entities.

2. In 2018, as part of the RAY BAUM'S Act of 2018, Congress specifically required that the Commission (i) adopt a schedule of application fees to recover the costs to process applications and (ii) amend the schedule, as needed, to reflect increases or decreases in the costs of processing applications or to reflect the consolidation or addition of new categories. The RAY BAUM'S Act requires the Commission to base application fees on the ''costs of the Commission to process applications.'' [2]

3. The Commission released a Notice of Proposed Rulemaking on August 26, 2020, seeking comment on proposed new, cost-based, application fees. The Commission proposed a new streamlined schedule of application fees to align with the types of applications the Commission now receives and to correlate the fees charged to the direct costs of processing the associated applications. In making the proposals under the revised statutory framework, the Commission proposed to adopt as overarching goals that the framework for assessing application fees would be fair, administrable, and sustainable.

4. The Commission sought comment on consolidating the application fees assessed on licenses for wireless services so that instead of separate application fees for each application in each wireless service, the fees would be consolidated into site-based licenses, personal licenses, and geographic-based licenses. The Commission also sought comment on consolidating some of the application fees for licenses from the Media Bureau and removing some broadcast applications from the fee schedule. In addition, the Commission sought comment on new application fees for certain applications in the Wireline Competition Bureau that currently do not have fees. For applications for international services, the Commission proposed to consolidate some of the application fees for space stations and earth stations, and add new application fees for some international services, such as petitions for United States market access for foreign space stations.

5. The Commission included estimates of the direct costs of processing the applications in support of the proposed fees. The Commission sought comment on the cost estimates and whether the appropriate steps in processing the application in estimating the costs were included.

6. The RAY BAUM'S Act fundamentally changed the structure of the Commission's application fees by moving from a schedule established by statute and updated to keep pace with the CPI to one where the Commission has discretion to amend the schedule of application fees itself and set them based on the costs of the Commission to process applications. To implement the RAY BAUM'S Act, we adopt a new streamlined schedule of application fees that aligns with the types of applications the Commission now receives and correlates the fees charged to the costs of processing the associated applications. In adopting rules under the revised statutory framework, our overarching goals in assessing application fees are that they are fair, administrable, and sustainable.

7. *Methodology for Calculating Application Fees:* The RAY BAUM'S Act directed the Commission to adopt a schedule of fees based on the cost of processing applications. In the *NPRM,*[3] the Commission proposed to base the application fees on an estimate of direct labor costs where possible. Where that

[1] The Commission was required to adjust the fees every two years to reflect changes in the CPI. Under the new section 8(b)(1) of the Act, the Commission is similarly required to review application fees in every even-numbered year, adjust the fees to reflect increases or decreases in the CPI, and round to the nearest $5 increment. 47 U.S.C. 158(b)(1).

[2] Section 8(a) provides: ''The Commission shall assess and collect application fees at such rates as the Commission shall establish in a schedule of application fees to recover the costs of the Commission to process applications.'' 47 U.S.C. 158(a). The prior version of section 8(a) did not mention costs, it provided: ''The Commission shall assess and collect application fees at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section.''

[3] 85 FR 65566 (October 15, 2020).

was not possible, the Commission proposed to base fees for applications that are largely automated using a calculation that accounts for the direct labor costs needed to process the small percentage of applications in these categories that require occasional staff involvement in processing. We adopt our proposals as modified herein. As we explain here generally, and in the discussion of individual fee categories more specifically, our methodology for calculating direct costs of application processing by design limits the set of activities that are included in our estimates.

8. We adopt the proposal in the *NPRM* to use time and staff compensation (salaries and the cost of employer-paid personnel benefits) estimates to establish the direct labor costs of application fees. Specifically, the estimates we developed are based on applications processed by Commission staff found to be typical in terms of the amount of time spent on processing each type of application. We estimated the direct labor costs to process a particular application by multiplying an estimate of the number of hours needed for each task, up through first-level supervisory tasks required to process the application, by an estimate of the labor cost per hour for the employee performing the task and by an estimate of the probability that the task needed to be performed. We estimated labor cost per hour for the various general schedule pay grades of the employees that process applications based on the 2020 federal government pay table for Washington DC, at the step 5 level, as we currently do under our Freedom of Information Act rules. We estimated the cost of personnel benefits at 20% of the salary level also per that rule, and we assumed that each employee works 2,087 hours in one year. We also rounded each fee to the nearest $5 increment, as required by section 8. After careful analysis, we find these cost estimates are a reasonable cost basis for the application fees we adopt in this Report and Order.

9. National Association of Broadcasters (NAB) disagrees with our methodology and argues that application fees for broadcasters should not include supervisory tasks.[4] We included the first-level supervisory costs because first-level supervisory labor is essential to the application process. An application decision typically cannot be finalized until it has been reviewed at least once and approved by a supervisor. Moreover, the first-level supervisory labor reflected in our estimates is an identifiable work activity that is a routine part of the application process and for which time estimates can be reliably developed relative to a specific type of application. Accordingly, we find it is appropriate to include supervisory tasks in our calculation of application fees.

10. Some commenters argue that processes for some applications are so automated that there should be no application fee. We find there are some direct labor costs incurred for a portion of these applications and we therefore conclude that adoption of a fee to account for those costs is appropriate. We do, upon further consideration, lower the application fee from the amount proposed in the *NPRM.* We reviewed the significant automation involved in these applications and the minimal staff input normally incurred in processing the applications and determined that this lowered direct costs for the average application than we had initially estimated. The $35 cost-based fee we adopt for mostly automated applications assumes that a relatively small number of these applications require staff direct labor. For administrative purposes (including that neither we nor applicants can reliably anticipate which applications will require such intervention), we assess this $35 fee on each applicant for mostly automated applications as identified throughout this order.

11. *A Streamlined Application Fee Schedule:* We adopt a streamlined schedule of application fees, consolidating the eight separate categories of fees currently in our rules down to five functional categories: Wireless Licensing Fees, Media Licensing Fees, Equipment Approval Fees, Domestic Service Fees, and International Service Fees. In conjunction with this streamlining, we consolidate our approach to listing application fees, reducing the total number of application fees from 450 to 173, while still including new fees for services that were not listed previously in section 8 of the Act. This consolidation will provide a more straightforward roadmap for filers to determine what fees they owe with any given application filed with the Commission.

12. *Wireless Licensing Fees: The* Commission proposed in the *NPRM* to consolidate the wireless license application fees into four categories, instead of adopting separate fees for each service, and we implement those changes in this Report and Order.[5] The fees we adopt are in the four categories consisting of site-based, personal,[6] geographic-based, and experimental.[7] The Universal Licensing System (ULS), the Commission's online software platform for licensing wireless services, provides for the filing, review, and disposition of all types of applications in the Wireless Radio Services, including auctioned geographic licenses, site-based licenses, and personal licenses.[8] Because ULS allows for the automated processing of many types of applications, the fees we adopt today are in many cases lower than the prior fees (which were set by statute and not necessarily reflective of current agency costs). We direct the Wireless Telecommunications Bureau and the Office of the Managing Director to issue and maintain on an ongoing basis on the Commission's website a list of the fee categories and the wireless radio services within each.

13. *Site-Based Licenses:* We adopt the site-based license application fees proposed in the *NPRM.*[9] Site-based licensed services include land mobile systems (one or more base stations communicating with mobile devices, or mobile-only systems), point-to-point systems (two stations using a spectrum band to form a data communications path), point-to-multipoint systems (one or more base stations that communicate with fixed remote units), as well as radiolocation and radionavigation systems. Applications to authorize these types of radio systems contain similar types of data (location, antenna, frequency, path, mobile devices) and the applications for some of these services often require technical analysis and review by Commission staff.[10]

[4] NAB Comments at 7.

[5] 85 FR 65567 (October 15, 2020) at para 8.

[6] The terms personal licenses and personal license services were used in the *NPRM* and are used here to refer to a grouping of radio services with similar characteristics and do not refer only to Personal Radio Services under part 95 of the Commission's rules, which does not include the Amateur Radio Service. Our intent here was to group radio services together that had similar types of data and levels of processing effort. As stated in the *NPRM* and in this Report and Order, with personal licenses, an applicant's initial application for authorization for a personal license seeks shared use of certain spectrum bands or a permit required for operation of certain radio equipment, but in either case, these applications focus only on eligibility and do not require technical review. The personal license fee category includes a mixture of radio services, including services covered by parts 13 (commercial operator), 80 (ship), 87 (aircraft), 95 (GMRS), and 97 (Amateur) of the Commission's rules.

[7] *See* 85 FR 65567 (October 15, 2020) at para 8.

[8] *See id.* ULS does not include licenses in the Experimental Radio Service. Applicants for conventional experimental licenses are required to file administrative and technical characteristics of their proposed experimental operation online in the Experimental Licensing System.

[9] 85 FR 65567 (October 15, 2020) at para 11.

[10] *See id., e.g.,* sections 1.923, 101.21.

Specifically, an applicant's initial application for authorization generally provides the exact technical parameters of its planned operations (such as transmitter location, area of operation, desired frequency(s)/band(s), and power levels).[11] Deviation from the specific authorized parameters requires the licensee to file an application to modify the station which, depending on the nature of the modifications, may require prior approval (major modifications) or may simply require notification after the fact (minor modifications).[12] The construction notification (where required) confirms construction based on authorized parameters, and the licensee's renewal request confirms continued operation at those parameters.[13] Depending on the particular service, the application may be significantly automated or may require detailed, often technical, review prior to initial authorization or major modification, and administrative review of minor modifications and of construction and renewal deadlines.

14. In the *NPRM,* the Commission proposed to consolidate application fees for these site-based licenses.[14] We recognize that this consolidation includes both site-based licenses that require more staff input and site-based licenses that are largely automated and require less staff input. As one commenter, EWA, observed, part 90 licenses range from multi-frequency, multi-site systems seeking exclusivity and governed by complicated licensing requirements such as the eligibility criteria for particular 800 MHz frequencies to mobile-only systems requesting shared VHF/UHF itinerant frequencies throughout areas of operation such as counties, states, or even the entire nation, and currently they all have a $70 filing fee.[15] EWA objected to the proposed fee increase from $70 to $190 for all part 90 applications because it included licenses for mobile-only systems that required almost no review by Commission staff.[16] Another commenter, Moncure, also opposed the proposal to treat all site-based wireline services equally, asserting that for the part 90 site-based applications requiring frequency coordination, much of the processing needed by the Commission is automated, and the proposed fees are not justified.[17]

15. In the *NPRM,* the Commission estimated that its resources in processing an application for a new site-based license or modification of an existing site-based license consisted of program analyst review and engineer technical review and involved, on average, $190 in costs. EWA asserted this was unreasonable because virtually all new and modified applications go through prior coordination by an FCC-certified Frequency Advisory Committee to verify that the technical parameters of the proposed system meet FCC requirements, and renewal showings now are based on check-the-box certifications on the Form 601.[18] We disagree that applications involving a frequency coordinator involve no review; however, we agree with EWA that a large number of site-based licenses have lower processing costs, and consequently the proposed fee of $190 may be in some cases higher than the direct costs for certain types of part 90 applications. Streamlining the fee schedule is beneficial to licensees and the Commission, but such streamlining involves a certain amount of cost averaging. That said, on further review, and keeping in mind that such streamlining should not result in statistically inaccurate fees, we find that the number of more highly automated licenses in the fee category warrants a downward adjustment of the fee for this category. Accordingly, we increased the weighting for applications with lower processing costs in our calculation. Therefore, we adopt a fee of $95, a lower fee than proposed in the *NPRM,* for the applications in the site-specific services.

16. The Commission estimated in the *NPRM* that its resources in processing an application for special temporary authority (STA) consisted of program analyst review and processing, engineer technical review, and supervisor coordination with management. Its estimate was that this process involved $135 in costs. We adopt the proposed fee of $135.

17. The Commission estimated in the *NPRM* that its resources in processing an application for an assignment or transfer of control consisted of program analyst review and processing, and it estimated that this process involved $50 in costs.[19] In proposing and seeking comment on the adoption of a cost-based fee of $50 for an assignment or transfer of control application, the Commission indicated that this fee would be assessed on a per call sign basis.[20] However, the Commission also noted that, under the current rule, it sometimes assesses an application fee for additional call signs that is significantly lower than the fee for the initial call sign.[21] EWA asserts that applying this same fees for every call sign in a transaction involving multiple call signs is unreasonable because less individual call sign review is needed for assignment or transfer applications since each license has been approved already by the FCC and the focus is on whether the assignee/transferee is qualified.[22] EWA explains that for site-based Part 90 land mobile radio services, an entity must identify each transmitter site at which it operates, and ULS allows only six fixed transmitter sites per call sign.[23] A large business enterprise with many hundreds of sites could be required to hold a hundred or more individual call signs to cover its operating area.[24] EWA contends that virtually all site-based applications for assignments and transfers are processed under the overnight immediate approval procedures and no oversight is involved, whether the application involves a single license or two hundred licenses.[25] Therefore, according to EWA, assessing fees based on the number of call signs in the filing does not in any way reasonably represent the FCC resources associated with processing the application.[26] Upon consideration of the record, we conclude that the cost of processing additional call signs is less than the initial call sign and therefore, weighting the costs for this reduced burden, adopt a fee of $35 for each additional call sign for assignments and transfers of control. Further, an analysis of assignment and transfer of control applications over the past five years shows that more than 90% of these applications involved 10 or fewer call signs. Recognizing the diminishing identifiable direct costs associated with processing additional call signs in the same transaction, we find that reducing fees for additional call signs and capping the number of call signs feeable per application better reflects the predictable, identifiable,

[11] *See id., e.g.,* section 101.21(e).

[12] *See id., e.g.,* sections 1.929, 1.947.

[13] *See id., e.g.,* section 1.949.

[14] 85 FR 65567 (October 15, 2020) at para 11.

[15] EWA Comments at 3–4.

[16] EWA Comments at 3–4. Forest Industries Telecommunications (FIT) and Wireless Infrastructure Association (WIA) also disagree with the proposal to adopt a more than 171% increase. FIT Reply at 1; WIA Reply at 4.

[17] Moncure Comments at 1.

[18] EWA Reply at 2.

[19] 85 FR 65567 (October 15, 2020) at para 12.

[20] *Id.* at 8, para. 18. (cite)

[21] *Id.* (noting that the current fee for applications to assign or transfer control of common carrier microwave licenses is $110 for the first call sign and $70 for each additional call sign); *see also id.* at 5, para. 6 (stating that the current application fees for wireless telecommunications services are codified in section 1.1102 of the Commission's rules).

[22] EWA Reply at 2.

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

direct costs of processing most applications in this fee category. Accordingly, we adopt a cap on application fees for assignments and transfers of control, under which only the first 10 call signs are feeable (*e.g.,* an assignment application with 15 call signs would be charged $365; $50 for first call sign, $35 each for nine additional call signs, and $0 for the five remaining call signs).

18. In light of the adoption of a reduced fee and call sign cap for transactions involving multiple call signs, we will apply the same fee to all assignments and transfers of control. Verizon, in its objection to the proposal to assess fees on a per call sign basis, argues that the disproportionate nature of assessing fees based on the number of call signs is particularly highlighted when it comes to pro forma applications, which require no more than minimal staff review.[27] Such applications can involve numerous call signs, but do not involve any actual change to the controlling party of a Commission license, and the Commission has long held them to be ''presumptively in the public interest.'' [28] Verizon argues the Commission should make clear that pro forma transactions, which the Commission has long held to be in the public interest, should not be subject to the same fees.[29] Our staff analysis finds identifiable direct costs associated with the processing of pro forma assignments and transfers of control, and therefore an application fee is appropriate. Moreover, we find that any concerns regarding disproportionate fees for these transactions are sufficiently mitigated by our adoption of a reduced fee for additional call signs and a cap of ten feeable calls signs per assignment or transfer of control application.

19. In contrast, we clarify that, in the context of assignments of licenses and transfers of control, the rule waiver fee we adopt is a per transaction fee, not a per call sign fee, as the Commission had proposed. In the *NPRM,* the Commission estimated that its resources in processing an application for rule waiver consist of program analyst review and processing, engineer technical review, attorney legal review, and supervisor coordination with management.[30] The Commission's estimate was that this process involved $380 in costs. EWA contends that the waiver fee should be imposed on the lead application, but not on related applications, since there is only a single waiver showing requiring FCC consideration.[31] EWA states that the FCC licensing structure dictates the number of call signs involved in a system, a number that varies widely depending on the service.[32] We agree with EWA's suggestion, and we clarify that we are adopting the waiver fee to be assessed on a per transaction basis and not per call sign. For assignments and transfers of control that include requests for waiver of the Commission's rules, the waiver fee will be charged on the lead application at the time of filing, with no charge assessed on related applications. A single fee will be charged for the entire request for waiver. This per transaction approach is limited to the context of assignments and transfers of control, and does not apply to other applications that include requests for waiver.

20. We adopt a $35 fee for certain site-based applications that are all or mostly automated. As the Commission explained in the *NPRM,* the applications for site-based renewals and spectrum leasing, are all mostly automated and do not have specific staff costs for data input or review. The Commission proposed an application fee of $50 for these applications. We agree with commenters asserting that that identifiable direct costs for the majority of these applications are minimal, and, based on our revised analysis of the cost of processing mostly automated processes discussed in our methodology section, we therefore adopt a reduced fee amount of $35 for site-based renewals and spectrum leasing for site-based licenses.

21. We adopt the proposal in the *NPRM* not to assess separate application fees for administrative updates, minor modifications, and license cancellations. In each of these cases, we find it difficult to calculate identifiable direct costs beyond those included in the calculation of the underlying license fee. For administrative updates we find it is difficult to calculate identifiable direct costs beyond those included in the calculation of the initial application fee for the license. Therefore, we are not adopting a separate fee for administrative updates. Minor modifications are largely automated, *e.g.,* a minor modification to remove facilities, so it is difficult to calculate identifiable direct costs beyond those included in the calculation of the initial application fee associated with the application being modified. Moreover, such modifications also are in the public interest. Therefore, we are not adopting a separate fee for minor modifications. Similarly, we note that cancelling a license in its entirety would not include identifiable costs beyond the initial application fee calculation. If, in the future, we are able to calculate an identifiable direct cost for such filings, beyond what is included in underlying license fee, we may revisit this issue. Our determination here is indicative of our careful approach to adopting fees under section 8 to ensure our process is fair, administrable, and sustainable.[33]

22. For the same reason, we decline to adopt the separate fees proposed in the *NPRM* for construction notifications associated with site-based license applications. EWA objected to such fees, asserting that the processing of site-based construction notifications is automated; the Commission has no staff costs for data input or review; and virtually all are granted overnight and thus, the proposed fees of $50 per call sign was unreasonable.[34] Guse contends that charging fees for filing construction notifications will lead to a reduced level of filing which will result in unlicensed operation by entities that had obtained a license.[35] After review of the record, we agree that it is difficult to calculate identifiable direct costs beyond those already included in the initial application fee for site-based construction notifications; we therefore conclude that we will not impose an additional application fee for site-based construction notifications.[36] In contrast, with respect to construction extension requests, we find that individual staff review of such filings is required and conclude that the identifiable direct costs do warrant imposition of an application fee; we therefore adopt the $50 application fee proposed in the *NPRM* for extension requests.

23. We further decline to adopt a separate application fee for amendments. CTIA contends that minor amendments, by definition, do not involve major changes that require significant new staff review and thus

[27] Verizon Reply at 3.

[28] *Id.*

[29] *Id* at 5.

[30] 85 FR 65567 (October 15, 2020) at para. 12.

[31] EWA Reply at 3.

[32] *Id.*

[33] We take a similar approach in the regulatory fee context where adoption of new fees and/or changes in fee categories is occasionally accomplished only after examining the issue multiple times to ensure that the record supports our actions. *See, e.g., Assessment and Collection of Regulatory Fees for Fiscal Year 2020,* Report and Order and Notice of Proposed Rulemaking, 35 FCC Rcd 4976, 4979–4980, para. 8 (2020), 85 FR 59864 (September 23, 2020).

[34] EWA Comments at 8.

[35] Guse Reply at 1.

[36] Our determination here related to construction notifications is limited to site-based licenses. Review of construction notifications for geographic-based licenses have several calculated identifiable direct costs, resulting in the finding that adoption of a cost-based fee is appropriate. *See infra* para. 48.

impose minimal new labor costs and exempting these types of amendments from processing fees would be more consistent with Congress's intent and the Commission's goals in this proceeding to align fees with costs.[37] EWA argues against imposing a fee for amendments because amendments may be required for a variety of reasons and, in some instances, the FCC returns applications for reasons that subsequently are determined to be incorrect and correcting the matter still may require the applicant to file an ''amendment'' explaining why no amendment is needed.[38] Another commenter, Guse, contends that charging fees for amendments is poor policy because the fee increases and additions will discourage entities from obtaining licenses and there is no reason to charge fees for actions that usually do not require FCC staff involvement.[39] We agree that with respect to such applications it is difficult to calculate identifiable direct costs beyond those included in the calculation of the underlying license fee and find that amendments allowed as part of an application should not be assessed an additional fee beyond the initial fee for the underlying application.[40] If, in the future, we are able to calculate an identifiable direct cost for such filings, beyond what is included in the underlying license fee, we may revisit this issue.

24. We decline to adopt the proposal in the *NPRM* to assess a fee for requests to receive a physical license by mail (including requests for a duplicate authorization) because the Commission has adopted an order eliminating these services.[41]

25. In all other respects, we adopt the fees proposed in the *NPRM* and discussed in the paragraphs above and as reflected in the schedule of fees in the final rules.

26. *Wireless Licensing Fees—Personal Licenses:* We adopt the categories of personal license application fees proposed in the *NPRM.* The Commission proposed a fee of $50 for each of these applications. The Sonoma County Radio Amateurs, Amateur Radio Relay League (ARRL), and many individual commenters contend that the proposed $50 fee for Amateur Radio Service applications is too high and will prevent amateurs from joining the amateur radio service; instead, they contend, the Commission should adopt no fee or a nominal fee.[42] We agree with commenters asserting this fee is too high to account for the minimal staff involvement in these applications and therefore adopt a reduced amount of $35 fee for all personal license application fees.[43]

27. In 2019, the Commission received over 197,000 personal license applications. Several services in the personal licenses category will be subject to new fees, such as Amateur Radio Service licenses, which were not listed on the fee schedule in the prior version of section 8 of the Act, but are now subject to fees under the RAY BAUM'S Act. In the *NPRM,* we sought comment on adopting cost-based fees for personal license applications.

28. Personal licenses include Amateur Radio Service licenses (used for recreational, noncommercial radio services), Ship licenses (used to operate all manner of ships), Aircraft licenses (used to operate all manner of aircraft), Commercial Radio Operator licenses (permits for ship and aircraft station operators, where required), and General Mobile Radio Service (GMRS) licenses (used for short-distance, two-way voice communications using hand-held radios, as well as for short data messaging applications).[44] With personal licenses, an applicant's initial application for authorization seeks shared use of certain spectrum bands, or a permit required for operation of certain radio equipment. In either case, these applications focus only on eligibility and do not require technical review. As such, there is no construction requirement (or related filings) and renewal filings are non-technical as well. For these reasons, applications in these services are highly automated and should be subject to the same assessment of fees.

29. Numerous commenters suggest that amateur radio licenses should be exempted or are exempt under section 8(d)(1) of the Act. We disagree and note as a starting point that the Commission has no authority to create an exemption where none presently exists. Thus, if an exemption exists, it must be contained within the wording of section 8(d)(1) of the Act.[45] None of the listed exemptions apply to exempt Amateur Radio Service licenses.

30. AGC argues that amateur radio licenses should be exempt under section 8(d)(1)(B) as they are ''operating for all intents and purposes as non-profit entities'' because they provide public safety and special emergency radio services in times of crisis on a volunteer basis.[46] While we are very much aware of these laudable and important services amateur radio licensees provide to the American public, we do not agree that amateur radio licenses fit within the section 8(d)(1)(B) exemption Congress provided. These specific exemptions do not apply to the amateur radio personal licenses. Emergency communications, for example, are voluntary and are not required by our rules. Further, there is no indication that most or all amateurs solely use their license for emergency communications; even the section of our rules allowing certain amateur operators to broadcast civil defense communications limit such authorization to periods of local, regional or national civil emergencies. As we have noted previously, ''[w]hile the value of the amateur service to the public as a voluntary noncommercial communications service, particularly with respect to providing emergency communications, is one of the underlying principles of the amateur service, the amateur service is not an emergency radio service.''

31. We also disagree with commenters[47] that argue that amateur radio operators are among the ''noncommercial'' entities that fall under section 8(d)(1)(C)'s exemption for ''a noncommercial radio station or a noncommercial television station.''[48]

[37] CTIA Comments at 11.

[38] EWA Comments at 9.

[39] Guse Reply at 1.

[40] We note, however, that where filings effectively constitute a new application, a new application fee would be required. For example, an amendment to add call signs could be construed, given the per-call sign application fee, to be a new filing requiring the requisite application fee.

[41] *See Completing the Transition to Electronic Filing, Licenses and Authorizations, and Correspondence in the Wireless Radio Services,* WT Docket No. 19–212, Report and Order, 35 FCC Rcd 10781 (2020) (*E-Licensing Order*).

[42] Sonoma County Radio Amateurs at 1.

[43] *See, e.g.,* ARRL Comments at 6; Knowles Comments at 4–10; Sonoma County Radio Amateurs at 1.

[44] 85 FR 65567 (October 15, 2020) at para. 17.

[45] 47 U.S.C. 158(d)(1). The exemptions are the following: ''(A) a governmental entity; (B) a nonprofit entity licensed in the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, or Special Emergency Radio radio services; or (C) a noncommercial radio station or noncommercial television station.'' *Id.* We note that the capitalization of the terms in section 8(d)(B) derive from the historical context of when they were first adopted as they refer to the names of current or former FCC radio services. *See, e.g., Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985,* Report and Order, 2 FCC Rcd 947, 958, 959–60, 963, paras. 71, 75–80, 111 & n.101 (1987); Notice of Proposed Rulemaking, 1986 WL 292181, at *11, para. 53 & n.55. Because Amateur Radio Service licenses are not and were never licensed under any of those radio services, they cannot take advantage of the statutory exemption.

[46] AGC Comments at 4.

[47] *See, e.g.,* Golden Reply at 3 and 4–5.

[48] *See, e.g.,* Griffin C. Klema, Esq. Comments at 2 (''so long as an applicant or licensee fits the definition of a 'noncommercial' it is expressly exempted from the cost-based fee regime under section 8''); Christopher Ruvolo Comments at 1–3

Although, under Commission rules, amateur radio is a ''voluntary noncommercial service,'' [49] we do not believe Congress intended to cover amateur radio operators under the newly added exemption. That rule was based on the Commission's determination that Congress intended to exempt noncommercial educational (NCE) broadcast stations from the application fees.[50] Given that the Commission's longstanding exemption rule of over 30 years covered only noncommercial educational broadcast stations, Congress presumably would have more clearly indicated an expanded exemption if it had intended one to cover amateur radio service. We see no such indication here. To the contrary, we believe Congress's inclusion of the term ''noncommercial television station'' immediately following ''noncommercial radio station'' cabins the contextual meaning of that term.[51] We did not then 30 years ago, nor do we now, conclude that the exemption covers non-broadcast services.''

32. Lastly, while fees for amateur radio licenses were not previously listed on the fee schedule in section 8 of the Act, the RAY BAUM'S Act directed the Commission to establish fees for all applications and there is no specific exemption for this radio service under section 8 of the Act as amended. If Congress had intended to exempt amateur radio licensees from payment of application fees, it would have identified this service as exempt, as it did in section 9 of the Act, exempting ''an amateur radio operator licensee under part 97 of the Commission's rules'' from payment of regulatory fees. While the RAY BAUM'S Act amended section 9 and retained the regulatory fee exemption for amateur radio station licensees, Congress did not include a comparable exemption among the amendments it made to section 8 of the Act. Indeed, had Congress intended amateur radio operators to be covered under the ''noncommercial radio station'' exemption in section 9(e)(1)(C), it would have been unnecessary to retain the regulatory fee exemption for amateur radio operators in section 9(e)(1)(B). Having included both provisions in section 9, we believe the most reasonable interpretation is that Congress did not intend for the noncommercial radio and television station exemption to cover the amateur radio service. Given the identical language appears in section 8(d)(1)(C), we interpret the exemptions consistently [52] and conclude that amateur radio station licensees are not covered under that exemption.

33. Some commenters support the $50 fee we proposed in the *NPRM* as reasonable and fair.[53] However, ARRL and many individual commenters argue that there is no cost-based justification for application fees for the Amateur Radio Service. ARRL explains that the service is largely self-governing and amateur radio operators prepare and administer examinations for amateur licenses.[54] They explain that preparing, administering, grading, and reporting amateur examinations has been done exclusively by amateur radio organizations that in turn submit to the Commission only the paperwork required to issue a license.[55] Several individual commenters argue that the only costs associated with this service relate to entry into and maintenance of ULS, which costs should be $0 per application and nominal per licensee (to cover FRN creation and ULS entry).[56] Others acknowledge that there may be some incremental costs associated with applications for vanity call signs or requests for paper licenses, but not with other applications that are entirely automated.[57] Other commenters propose graduated fees (generally starting at $0) for the different license classes (*i.e.,* Technician, General, Extra), or for new licenses, renewal, vanity call sign, etc.[58]

34. We agree that the applications for amateur licenses, and other personal licenses, are largely automated, and for that reason the cost-based fee we adopt is only $35. With respect to the amateur licenses, while review is highly automated, staff must maintain the processing system to ensure applicants are qualified, vanity call sign procedures are followed, and off-lined applications are individually reviewed.[59] Therefore, we cannot conclude that there are no costs involved in processing the applications and we do not have the discretion to exempt this service from application fees.

35. ARRL and many individual commenters additionally claim that the proposed fee will harm the public interest by discouraging people who are younger from becoming licensed or by causing people who are older and living on fixed income to leave the service (depriving others of their skills and experience).[60] These commenters explain that participation in the amateur radio service can be an entry point to science, technology, engineering, and math careers.[61] They also note that amateur licensees have driven innovation in communications and

(''Licensed amateur stations meet the 'noncommercial' requirement of the exceptions authorized under 47 U.S.C. 158(d)(1)(C)''); Golden Reply at 3 and 4–5 (arguing that the exemption in 8(d)(1)(C) is not limited to broadcast licensees and includes amateur radio licensees).

[49] *See* 47 CFR 97.1(a) (identifying one of the fundamental purposes of the amateur radio service includes ''[r]ecognition and enhancement of the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications''); 97.3(a)(4) (defining ''Amateur service'' as a ''radiocommunication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest''); 97.113(a)(2), (3) (prohibiting amateur stations from transmitting ''communications for hire or for material compensation, direct or indirect, paid or promised'' or ''communications in which the station licensee or control operator has a pecuniary interest''); see also 47 U.S.C. 153(3) (defining ''amateur station'' as a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest'').

[50] *Application Fee NPRM,* para. 13 & note 13 (explaining that the exception in § 1.111 was based on the statements in Conference Report to accompany H.R. 3128, House of Representatives Report No. 99–453 indicating that that ''non-commercial radio and television stations will not be subject to any of the fees listed in this schedule.'' 1985 Conference Report at 423; 425, 426. Moreover, the legislative history to the 1989 amendments to section 8 reaffirmed the point. Conference Report to accompany H.R. 3299, House of Representative Report No. 101–386 (1989) (''Non-commercial broadcasters were excluded from the initial Schedule of Charges passed in 1985. The House recedes to the Senate position and agrees to continue to exclude non-commercial broadcasters from the Schedule of Charges.'')).

[51] *See Yates* v. *U.S.,* 574 U.S. 528, 543 (2015) (explaining the principle of noscitur a socii—a word is known by the company it keeps—to avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words thus giving unintended breadth to the Acts of Congress).

[52] *See Law* v. *Siegal,* 571 U.S. 415, 422 (2014) (under the ''normal rule of statutory construction'', ''words repeated in different parts of the same statute generally have the same meaning'').

[53] *See, e.g.,* Greg Gallop Comments at 1; Serge Miller Comments at 1; Carl Akers Comments at 1; Mark Brown Comments at 1.

[54] ARRL Comments at 2–3. ARRL is also known as the American Radio Relay League.

[55] *Id.* at 3.

[56] *See, e.g.,* Vollie T. Miller Comments at 1; Charles McKinnis Comments at 1; Terry Whitehead Express Comments at 1.

[57] *See, e.g.,* Arthur Clark Comments at 1; Kim & Ralph Irons Comments at 1; Christopher A. Merck Comments at 1.

[58] *See, e.g.,* Charles Bierwirth Comments at 1; Henry Silver Comments at 1; John Eddy Comments at 1.

[59] To the extent the *NPRM* could be construed as basing the proposed amateur radio service application fee in part on ULS maintenance costs, *see* Joseph H. Hibberd Comments at 1–2, we do not consider such costs in establishing the $35 fee in this Order.

[60] *See* ARRL Comments at 6, 9; *see also, e.g.,* Robert S. Antoniuk Comments at 1; Brian Wasson Comments at 1.

[61] *See, e.g.,* ARRL Comments at 9.

other technologies.[62] While we agree that participation in the Amateur Radio Service offers important public interest benefits, that determination does not alter our obligation under RAY BAUM's Act to adopt cost-based fees for processing applications regarding nonexempt service.

36. Other commenters argue that it is unreasonable for the Commission to impose fees on Amateur Radio Service licensees given that the Commission has outsourced many of the administrative functions for the service. Individual operators and their organizations perform not only the training and examination functions we have discussed, but also assist the Enforcement Bureau in policing the service for unlicensed operations and other interference issues.[63] These commenters argue that if the Commission adopts application fees for the service, it should use the fees for the benefit of licensees, for example, by taking more robust enforcement actions against unlawful operators.[64] While we appreciate the commenters' diligent advocacy for their service, we remind them that the Commission does not have discretion on how to use application fees, which must be deposited in the U.S. Treasury.

37. One commenter, Knowles, contends that the proposed $50 fee for GMRS is too high, as the application process is automated.[65] There is no testing involved, as with the amateur license. We recognize that the application process for GMRS licenses is highly automated. There are, however, some costs involved in ensuring applicants are qualified and off-lined applications are individually reviewed, and we cannot conclude that there are no costs involved.

38. After reviewing the record, including the extensive comments filed by amateur radio licensees and based on our revised analysis of the cost of processing mostly automated processes discussed in our methodology section, we adopt a $35 application fee, a lower application fee than the Commission proposed in the *NPRM* for personal licenses, in recognition of the fact that the application process is mostly automated.[66]

39. We adopt the proposal from the *NPRM* to assess no additional application fee for minor modifications or administrative updates, which also are highly automated. Also, consistent with our decision for site-based applications, we do not adopt a fee for amendments. We find that it would difficult to calculate identifiable direct costs beyond those included in the calculation of the underlying license application fee adopted for personal license services. If, in the future, we are able to calculate an identifiable direct cost for such filings, beyond what is included in underlying license fee, we may revisit this issue. We also decline to adopt a fee for instances where an applicant elects to receive a physical license by mail (including requests for a duplicate license), because the Commission has adopted an order eliminating such printing and mailing services.

40. We adopt the fees proposed in the *NPRM* as modified in the paragraphs above and as reflected in the schedule of fees in the final rules.

41. *Geographic-Based Licenses:* We adopt the geographic-based license application fees proposed in the *NPRM.* We further consolidate the short-form and long-form auction fees into a single fee that is paid by the entities that win the licenses in an auction. We conclude that a consolidated fee is consistent with section 8 and will also promote the various objectives of spectrum auctions enumerated in section 309(j) of the Communications Act.[67]

42. Geographic-based licenses authorize an applicant to construct anywhere within a particular geographic area's boundary (subject to certain technical requirements, including interference protection) and generally do not require applicants to submit additional applications for prior Commission approval of specific transmitter locations. Geographic-based licensing services include the 220–222 MHz Service (used for flexible wireless services over narrowband frequencies), 24 GHz Service and Upper Microwave Flexible Use Service (used for a variety of data services), Multilateration Location and Monitoring Service (used to locate and monitor remote radio units), Multiple Address System (used for supervisory control and data acquisition services), Multichannel Video Distribution and Data Service (used for TV programming and internet connectivity), Paging and Radiotelephone Service (used for narrowband one-way and two-way land mobile communications), VHF Public Coast Stations (used as a maritime mobile service to address the distress, navigational, and business communications needs of vessels), and 800 MHz and 900 MHz Specialized Mobile Radio Service (used for flexible wireless services to businesses and consumers).

43. Some geographic-based services, such as the Advanced Wireless Service, Broadband Personal Communications Service, and the 600 MHz, 700 MHz,[68] 3.5 GHz,[69] and 3.7–4.2 GHz Services,[70] did not have application fees previously; however, the RAY BAUM'S Act requires the Commission to collect fees for all applications, unless specifically exempt. For these geographic-based services, an applicant's initial application is generally accepted as a result of an auction and focuses on the area and spectrum of interest, as well as the applicant's eligibility and qualifications. Applications in these services require detailed eligibility review prior to initial authorization, detailed technical review of construction filings, and detailed service review at renewal in some circumstances.

44. We adopt the proposal in the *NPRM* to adopt a single fee that is paid by an entity that wins licenses in an auction. In the *NPRM,* the Commission sought comment on whether it should adopt separate short-form and long-form application fees or a single auction fee at the long-form stage so that only a winning bidder would be required to pay a combined application fee. Commenters recommend that the Commission consolidate auction application processing costs and impose a fee only on successful bidders that file long-form applications.[71]

45. We conclude that a single fee is consistent with section 8 and will also promote the various objectives of spectrum auctions enumerated in section 309(j) of the Communications Act.[72] We recognize that a single fee

[62] *See, e.g.,* ARRL Comments at 6; Jamie Heim Comments at 1.

[63] *See* Amy S. Lindenmuth, Calvin T. Wagner Jr., Frances R. Wagner Comments at 1.

[64] *See* Jordan Nash Comments at 1; Joseph Grib Express Comments at 1; Paul Andrews Express Comments at 1.

[65] Knowles Comments at 4–10.

[66] *See, e.g.,* several other applications, such as for license renewal and spectrum leasing in the site-based category, that are largely automated and now have $35 fees.

[67] 47 U.S.C. 309(j)(3). For example, one such objective that may be impacted by reduced competition resulting from a short form fee assessed on all auction participants is the ''recovery for the public of a portion of the value of the public spectrum resource made available for commercial use.'' *Id.* Section 309(j)(3)(C).

[68] The subdivisions of the 700 MHz band by radio service code and name are as follows: WU 700 MHz Upper Band (Block C), WX 700 MHz Guard Band, WY 700 MHz Lower Band (Blocks A, B, E), WZ 700 MHz Lower Band (Blocks C, D).

[69] More specifically, this as radio service code is ''Public Law 3.5 GHz, Auctioned'' and we call this elsewhere Citizens Band Radio Service or CBRS.

[70] Also referred to as 3.7–3.98 GHz band (or the ''3.7 GHz Service'').

[71] EWA Comments at 5; WISPA Comments at 4.

[72] 47 U.S.C. 309(j)(3). For example, one such objective that may be affected by reduced competition is the ''recovery for the public of a

would not require the short-form applicants that do not become winning bidders to pay an application fee; only the winning bidders would pay for the costs of processing applications. However, we find Section 8 is ambiguous on whether we must treat each stage of an application for an auctioned spectrum license (which requires a short-form application, a long-form application, along with an indeterminate number of bids) as one, two, or multiple applications.[73] To the extent we have discretion in interpreting that provision, we exercise it in line with the record and our view that the short-form filing(s), any bids, and long-form filing(s) are part of a single ''application'' within the scope of section 8 such that a fee is required only once that application is submitted at the long-form stage. We also note that developing and implementing changes to the electronic auction application system, including integrating such changes with other electronic databases, to require a payment from each auction participant at time of filing a short-form would require significant effort upon the part of the Commission and could delay our ability to expeditiously conduct auctions in the next year. Any such delays would be avoided by waiting until the long-form application is due from the winning bidders and imposing a single application fee at that time to cover costs of processing of applications for licenses assigned by auction. Because this consolidated payment process avoids such delays, we find that a reasonable exercise of our discretion consistent with the requirement in section 8(a) that the fees ''recover the costs of the Commission to process applications'' and our obligation under section 309(j).[74]

46. One commenter, Select Spectrum disagrees with the proposal to assess application fees for auction participation generally and contends that such a fee would threaten robust and diverse auction participation by small-scale enterprises and others.[75] Alternatively, contends Select Spectrum, these fees, at minimum, should be waived for all organizations filing for Designated Entity status as a small business, tribal land, or rural service provider qualifying party.[76] Select Spectrum argues that such exemption would help to preserve auction participation by the entities that would be impacted the most by these fees, while still allowing the Commission to collect fees from larger organizations that elect to participate.[77] Although we agree that a robust and diverse auction is an important goal, there is no exemption in section 8 for auction applications.[78] We further find that adopting the proposal to consolidate the short-form and long-form fees addresses in part the concerns raised by Select Spectrum in that only winning bidders will be assessed these fees and it will reduce the financial risk of all organizations with Designated Entity status to the extent they will not be subject to such fees unless they are winning bidders in an auction.

47. We adopt a single application fee of $3,175 as proposed. Each applicant would be charged one fee of $3,175, regardless of the number of licenses won at auction.

48. We adopt the fees for a new license or a major modification, renewal, minor modifications, construction notification or extension, and STA proposed in the *NPRM.* [79] In the *NPRM,* the Commission estimated that its resources in processing an application for a new license or a major modification (not a long-form or short-form application) consist of program analyst review and processing, engineer technical review, map review, and attorney supervisor legal review. Our estimate is that this process involves $305 in costs.[80] The Commission estimated that its resources in processing an application for a renewal consist of analyst review, engineer technical review, and exhibit review, involving $50 in costs.[81] The Commission estimated that its resources in processing an application for a minor modification consist of engineer technical review and map review, involving $200 in costs.[82] The Commission estimated that its resources in processing an application for construction notification or extension consist of program analyst review and processing, engineer technical review, analysis, validation of coverage, attorney legal review, and supervisor coordination with management, involving $290 in costs.[83] The Commission estimated that its resources in processing an application for STA consist of a contractor entering data in the ULS, a program analyst preparing a public notice accepting the application for filing, program analyst review, supervisor coordination with management, and a program analyst preparing the public notice granting or denying the application, involving $335 in costs.[84] We adopt these proposed fees.

49. We adopt with modification the proposal in the *NPRM* to assess a $195 fee for assignment or transfer of control and assess such fees on a per call sign basis. We modify the proposal by reducing the fee for each additional call sign to $35 and capping the number of calls signs assessed a fee on the same application at 10. In the *NPRM,* the Commission estimated that its resources in processing an application for assignment or transfer of control consist of program analyst review, engineer technical and map review, and supervisor legal review, involving $195 in costs.[85] The Commission had proposed the fee for assignment or transfer of control on a per call sign basis. Commenters disagree. CTIA contends that the number of call signs in an application should not be the basis for assessing fees because it does not proportionally increase the Commission's processing costs and may lead to unfair or inappropriate results.[86] CTIA explains that, for example, applications that currently incur fees on a per-call sign basis seek Commission approval for a variety of transactions, and Commission staff largely analyze and process them on a holistic, per-transaction, not a per-call sign, basis.[87] CTIA observes that some complex transactions requiring significant staff review may involve only a handful of call signs, and thus incur limited application processing fees, while simpler transactions requiring minimal

portion of the value of the public spectrum resource made available for commercial use.'' *Id.* Section 309(j)(3)(C).

[73] Indeed, one could plausibly argue that each bid for a spectrum license is its own request or ''application'' for that license, but we find no evidence that Congress intended us to require a separate filing fee each time an applicant made any filing with respect to a particular spectrum license.

[74] Nothing in our treatment of auction applications for fee purposes should be construed to affect any other obligations under our auction rules.

[75] Select Spectrum LLC, Kitsune Communications LLC, Columbia Energy, LLC/Columbia Rural Electric Association, Diode Cable Co., Jade Communications LLC, Spectrum Financial Partners, LLC, SonicNet Inc., Southern Ohio Communication Services, Inc., Bayfield Wireless, Desert Winds Wireless/Performance Computing/Preferred Networks (Select Spectrum) Comments at 2.

[76] *Id.*

[77] *Id.*

[78] Under the RAY BAUM'S Act, the exemptions are to ''(A) a governmental entity; (B) a nonprofit entity licensed in the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, or Special Emergency Radio radio services; or (C) a noncommercial radio station or noncommercial television station.'' 47 U.S.C. 158(d)(1).

[79] 85 FR 65568 (October 15, 2020) at para. 25.

[80] 85 FR 65568 (October 15, 2020) at para. 26.

[81] *Id.*

[82] *Id.*

[83] *Id.*

[84] 85 FR 65568 (October 15, 2020) at para. 26–27.

[85] *Id.*

[86] CTIA Comments at 5.

[87] *Id.*

staff review may involve a larger number of call signs and thus incur comparatively higher application processing fees.[88] After reviewing the record, we agree with CTIA and the other commenters that oppose the proposed fee on a per call sign basis for call signs beyond the first 10. As we found with the site-based licenses, a lower fee of $35 for subsequent call signs and a cap of fees at 10 total call signs on the same application is an appropriate cost-based fee.

50. We adopt the proposals in the *NPRM* for application fees for spectrum leasing, waiver, and designated entity licensee reportable eligibility event, with one modification. Similar to our decision for site-based licenses, we clarify that in the context of assignments and transfers of control, the rule waiver fee we adopt is a per transaction fee, not a per call sign fee. The waiver fee will be charged on the lead application at the time of filing, with no charge assessed on related applications. This per transaction approach is limited to the context of assignments and transfers of control, and does not apply to other applications that include requests for waiver. In the *NPRM,* the Commission estimated that its costs in processing an application for spectrum leasing consist of program analyst review and processing, engineer technical review and map review, and attorney supervisor legal review, involving $165 in costs. The Commission estimated that its resources in processing an application for waiver consist of program analyst review and processing, engineer technical review, attorney review, and supervisor coordinate with management, involving $380 in costs.[89] The Commission estimated that its resources in processing an application for a designated entity licensee reportable eligibility event consist of attorney-supervisor legal review, involving $50 in costs. We adopt the application fee for assignment and transfer of control for $380 and a $50 fee for a designated entity licensee reportable eligibility event.

51. We adopt the fees proposed in the *NPRM* as modified in the paragraphs above and as reflected in the schedule of fees in the final rules.

52. *The Educational Broadband Service (EBS) Exemption.* The Commission adopts its proposal to eliminate § 1.1116(e)(4) of our rules. In light of the changes the Commission made in 2019 to its EBS rules, we conclude that a blanket exemption of EBS licensees no longer is appropriate. We note that governmental entities that hold EBS licenses would continue to be exempt from application fees under § 1.1116(f) of our rules.

53. Eligibility to hold EBS licensees previously was limited to (1) accredited public and private educational institutions, (2) governmental organizations engaged in the formal education of enrolled students, and (3) nonprofit organizations whose purposes are educational and include providing educational and instructional television materials to accredited institutions and governmental organizations. EBS licenses also were subject to educational use and lease restrictions. In 2019, however, as part of the Commission's ongoing effort to maximize spectrum use in the commercial marketplace, the Commission eliminated eligibility, educational use, and leasing restrictions for EBS licenses, clearing the way for commercial, non-educational use of the channels within the 2.5 GHz Band previously reserved for EBS services. As part of its decision, the Commission noted that most incumbent EBS licensees had abandoned use of EBS as a closed, dedicated means of distributing educational content, and that the educational use of the 2.5 GHz band has become indistinguishable from the commercial broadband service offered by the commercial lessee, with most EBS licensees or their commercial lessees providing digital broadband service. In light of these changes, the Commission proposed to eliminate § 1.1116(e)(4) of the Commission's regulations.

54. Some commenters opposed elimination of the EBS exemption. WISPA contends that the vast majority of EBS licenses continue to be held by non-profit educational entities, and WISPA expects that this will continue to be the case going forward.[90] WISPA argues further that EBS spectrum lease provisions often require ongoing service to educational institutions, and the Commission's elimination of lease restrictions do not override the contractual provisions between EBS licensees and lessees.[91] NEBSA recommends modifying rather than eliminating § 1.1116(e)(4) to exempt existing private non-profit entities and new EBS licensees that provide only educational or other noncommercial services, or lease capacity of their EBS licenses to non-profit or governmental entities who then provide educational or other noncommercial services, are exempt.[92]

55. The Commission is not persuaded that retention of § 1.1116(e)(4) of our rules, even in modified form as proposed by NEBSA, is warranted. Few, if any, EBS licensees would be eligible for the proposed exemption because most EBS licensees lease their spectrum to commercial providers. Even EBS licensees such as Northern Michigan University and Kings County Office of Education that self-deploy networks are operating commercial networks that charge customers.[93] The proposed exemption would also be difficult to administer fairly.[94] And commenters do not explain how applications related to a service used commercially could be exempt from fees consistent with section 8 as revised by the RAY BAUM'S Act. Accordingly, § 1.1116(e)(4) of our rules will be deleted.

56. *Experimental Radio Service Licenses:* We adopt the application fees for Experimental Radio Service for New Station Authorization, Modification of Authorization, Renewal of Station Authorization, Assignment of License or Transfer of Control, STA, and Confidentiality request that the Commission proposed in the *NPRM.* No entities filed comments on or otherwise objected to the proposed fees.

57. The experimental radio service permits broad experimentation, including assessing equipment intended to operate in existing Commission services, proof of concept testing and evaluation of new radio technologies, equipment designs, radio wave propagation characteristics, and service concepts related to the use of the radio spectrum.[95] Experimental operations include scientific or technical radio research, technical demonstrations of equipment or techniques, and product development and market trials, among other things.[96] The experimental radio service rules prescribe flexible rules to encourage manufacturers, inventors,

[88] *Id.*

[89] Consistent with existing practice, a request for waiver filed as part of an auction application would not be feeable. The waiver fee would be imposed on all other requests for waiver submitted in connection with geographic-based licenses, including any such request made by a potential auction applicant that is not filed as part of an auction application and any waiver request filed in association with an auction winner's long-form application.

[90] Wireless Internet Service Provider Association (WISPA) Comments at 7.

[91] *Id.*

[92] National EBS Association (NEBSA) Comments at 2–3.

[93] *See https://nmu.edu/ean/* (detailing charges for Northern Michigan University's LTE network), *https://www.kingscoe.org/domain/45* (same for Kings County, California).

[94] For example, it is not clear what would happen if a licensee claimed the proposed fee exemption but subsequently decided to lease its spectrum.

[95] 47 CFR 5.1.

[96] 47 CFR 5.3.

entrepreneurs, and students to experiment across a wide range of frequencies, power, emissions, and applications.

58. There are two distinct paths for obtaining an experimental radio license.[97] Traditionally, applicants are required to file a conventional experimental license application and receive a license grant prior to operating. [98] These licenses are generally limited to a single type of experiment.[99] Conventional applications vary in the types of services requested, number of transmit sites needed, and technical complexity.[100] For example, Cubesat experiments widely differ in their size and scope and can be extremely complex.[101] Other applications, such as for new 3650 MHz Citizens Broadband Radio Service (CBRS) Experiments and sporting event STA applications, are more straightforward.[102] Applicants for conventional experimental licenses are required to file administrative and technical characteristics of their proposed experimental operation online in the Experimental Licensing System. [103] Commission staff review and manage the data, correspond with applicants, and manage frequency coordination workflow.

59. The Commission also offers additional types of licenses—the program license, the medical testing license, and the compliance testing license—collectively referred to herein as program licenses, as well as broadcast experimental licenses and spectrum horizon experimental licenses. The program license, medical testing license and compliance testing license offer an alternative streamlined process to the conventional experimental license procedures for entities that meet certain eligibility criteria. Rather than applying for a specific course of experimentation, qualified entities apply for and are approved to conduct a broad range of experiments within an area under their direct control, such as a university campus or manufacturing plant.[104] Because licensees are not approved for specific experiments, they are required to post a description of each experiment along with the technical data to the Commission's Experimental Notification System web page.[105] Once posted, licensees must wait ten days when using non-federally allocated spectrum to allow any potentially affected user to comment and raise any concerns. If there are no objections, the licensee may proceed with its experiment.

60. Regardless of the complexity of any application, each must undergo a similar review process to determine if all required information is provided, to review the experimental description and analyze the technical data to ensure it is consistent with that description and to determine what coordination, if any, is required. The same process must also be followed for program experimental licenses. Although this process is similar across all application types, the amount of time needed to complete the application review differs based on complexity.

61. We adopt the cost-based fee for these applications that we proposed in the *NPRM* and discussed in the above paragraphs and as reflected in the schedule of fees in the final rules. All fees are per call sign unless otherwise noted.

62. *Media Licensing Fees:* The Commission processes media applications for licensing broadcast television and radio spectrum for commercial and noncommercial users, and those related to the provision of cable service.[106] Certain media license construction permits are assigned through competitive bidding and we will assess a single post-auction consolidated long-form and short-form fee for auctioned construction permits. Application fees for services are currently organized according to whether they are for TV service or AM and FM radio service. We proposed in the *NPRM* to retain this organization for these services, remove those fees associated with requirements that the Commission has previously eliminated, and add fees for services, as now required, that are not covered by the current fee schedule. We adopt the media licensing application fees proposed in the *NPRM.*

63. *Auctioned Broadcast Services:* Some broadcast licenses are obtained through a process including an auction for construction permits. For auctioned construction permits the Commission sought comment in the *NPRM* on imposing only a single application fee so that only a winning bidder would be required to pay an application fee to the costs of short-form and long-form processing. Under such a consolidation there will be no separate short-form fee; the only fee would be due when the application is submitted at the long-form stage. In the *NPRM,* the Commission asked for comment on whether consolidation would alleviate the possibility that establishing a fee for filing an auction application might discourage auction participation, particularly by small or minority-owned businesses.[107] The Commission recognized that fewer applications could result in reduced competition in an auction, undermining its ability to promote the various objectives of spectrum auctions enumerated in section 309(j).[108] For the same reasons we adopt single application fees for auctioned wireless licenses, we decide to charge only a single fee for auctioned broadcast construction permits, consistent with section 8 and in the interest of minimizing our costs of processing auctions and maximizing competition in the auction process.[109]

64. We adopt the proposed estimate of $575 in costs for broadcast auctions short-form processing. In the *NPRM,* we estimated that the Commission's costs in processing the short-form stage consists primarily of attorney review and attorney supervisor legal review, involving $575 in costs. Accordingly, when a broadcast construction permits is won at auction the application fee for that construction permit will be $575 higher than the otherwise applicable application fee.

[97] 85 FR 65569 (October 15, 2020) at para. 34–35.

[98] *See, e.g.,* 47 CFR 5.53.

[99] *See id.* Section 5.54(a)(1) (defining a ''conventional experimental radio license'' as a license ''issued for a specific research or experimentation project (or a series of closely-related research or experimentation projects), a product development trial, or a market trial'' and noting that ''[w]idely divergent and unrelated experiments must be conducted under separate licenses''); *see also Application Fee NPRM* at 13, para. 41, 85 FR 65569 (October 15, 2020) at para 34.

[100] 85 FR 65569 (October 15, 2020) at para 34.

[101] Cubesats are small satellites that use a standard size and form factor; generally, ''one unit'' or ''1U'' which measures 10x10x10 centimeters. *See What are SmallSats and CubeSats?* (Feb. 26, 2015), *https://www.nasa.gov/content/what-are-smallsats-and-cubesats.*

[102] 85 FR 65569 (October 15, 2020) at para 34.

[103] 47 CFR 5.53(c)–(d), 5.61. In certain circumstances, an applicant may request an STA by telephone or electronic media for operation of a conventional experimental radio service station, provided a properly signed application is filed within 10 days of such request. *Id.* 5.61(a)(3).

[104] *See id.* 5.304, 5.404. In addition, compliance testing licensees are authorized to conduct activities related to equipment authorization which generally occurs at their laboratory facilities. *See* 47 CFR 5.502.

[105] *See id.* 5.309(a), 5.406(b); FCC Experiments Notification System, *https://apps2.fcc.gov/ELSExperiments/pages/login.htm.*

[106] For a comprehensive description of Media Bureau activities, *see https://www.fcc.gov/media.*

[107] 85 FR 65576 (October 15, 2020) at para. 83.

[108] 47 U.S.C. 309(j)(3). For example, one such objective that may be affected by reduced competition is the ''recovery for the public of a portion of the value of the public spectrum resource made available for commercial use.'' *Id.* 309(j)(3)(C).

[109] 47 U.S.C. 309(j)(3). For example, one such objective that may be affected by reduced competition resulting from a short form fee assessed on all auction participants is the ''recovery for the public of a portion of the value of the public spectrum resource made available for commercial use.'' *Id.* 309(j)(3)(C).

65. NYX Communications and REC Networks support the proposed fee of $575 for the broadcast auctions short-form application, for all short-form filers and thus oppose a consolidated auction fee that is only assessed on winning bidders.[110] These commenters contend that imposing a fee prior to auction could discourage speculators from selecting new facilities that they do not actually construct and other types of gamesmanship.[111] We find that concerns about gamesmanship are outweighed by the likelihood of increased competition and better addressed through other available means to prevent speculation such as capping the number of applications each applicant may file.

66. *Commercial Full Power TV Services and Class A TV Stations:* We adopt the Commercial Full Power TV Services and Class A TV Stations application fees as proposed in the *NPRM.* Full Power TV stations include all stations in the television broadcast band transmitting a vestigial sideband signal intended to be received by the general public, except for low power TV and TV translator stations. Class A TV stations are low power television stations that meet the programming and operational standards set forth in the Community Broadcasters Protection Act of 1999 and are broadcasting a minimum of 18 hours per week and an average of at least three hours per week of locally produced programming each quarter.

67. The staff tasks involved in processing Full Power TV applications and Class A TV Station applications are the same. A party must apply for a construction permit before building a new TV station. The applicant must demonstrate that it is legally, technically, and financially qualified to construct and operate the station and that its proposed facility will not cause objectionable interference to any other station. Once its application has been granted, the applicant is issued a construction permit authorizing it to build the station within a specified period, usually three years. After the applicant, or permittee, builds the station, it must file a license application, in which it certifies that it has constructed the station consistent with the technical and other terms specified in its construction permit. Upon grant of that license application, the Commission issues the new license to operate to the permittee, now considered a licensee, which authorizes the new licensee to operate for a stated period, up to eight years. At the close of this period, the licensee must seek renewal of its station license. A licensee must file an application to the Commission for approval of an assignment, transfer, or technical modification of an existing license.

68. The Commission proposed to adopt identical cost-based fees for Full Power TV and Class A TV applications because the processing of Full Power TV applications and Class A TV Station applications are the same.

69. We estimated that the Commission's resources in processing applications for new and major change construction permits consist of significant engineering and legal analysis, as the applications tend to be highly complex. We estimated that the Commission's cost of processing applications for permits, encompassing engineer technical review, engineer supervisory review, attorney legal review, attorney pleadings review, and attorney written disposition review, is $4,260. When a construction permit is auctioned, this fee will be increased by $575 to reflect the costs of short-form processing, for a total of $4,835 for Full Power TV and Class A TV applications.

70. Applications for new licenses, long-form license assignments, long-form transfers of control, and Full Power TV minor modifications are complex matters that require significant engineering review and legal analysis. We estimated that the Commission's cost of processing an application for a new license, which consists of engineer application review, engineer supervisory review, attorney pleading review, and attorney written disposition review, is $380. Applications for long-form license assignment and long-form transfers of control often involve petitions or objections after the application is filed. We estimated that the Commission's cost of processing long-form license assignment and transfers of control, including attorney application review, attorney supervisory review, attorney pleading review, and attorney written disposition review, is $1,245. Commission review of minor modification construction permit applications for Full Power TV involves engineer application review, engineer supervisory review, attorney pleading review, and attorney written disposition review, at an estimated cost of $1,335.

71. Other applications are of lesser complexity and therefore impose fewer costs on the Commission staff, including license renewals, short-form license assignments, short-form transfers of control and STA. The processing of these applications may involve petitions or objections after the application is filed and typically involve attorney application review, attorney supervisory review, attorney pleading review, and attorney written disposition review. We estimated that the Commission's cost of processing an application for license renewal is $330. For short-form license assignments and transfers of control, we estimate that the cost of processing is $405. We estimated that the Commission's cost of processing an STA application is $270.

72. For applications for call signs, which involves some legal analysis, we estimated that the Commission's resources in processing a TV call sign consist of analyst application review at the cost of $170. For ownership report applications, which involve minimal review by Commission staff, we estimate that the Commission's resources in processing a TV Ownership Report consist of analyst application review and that the cost of this process is $85.

73. A petition for a rulemaking to amend the DTV Table of Allotments for a new community of license has a high level of complexity and involves significant legal analysis and engineering review. We estimated that the Commission's resources in processing a Full Power TV petition for rulemaking consist of engineer application review, engineer supervisory review, attorney legal review, attorney pleading review, and attorney written disposition review, and that the cost of this process is $3,395.

74. We are deleting the Main Studio Request application fee from the fee schedule. The Commission proposed removing the Main Studio Request from the application fee schedule as a category because the Commission eliminated the Main Studio Rule.[112]

75. We adopt the cost-based fees, assessed per application, as proposed in the *NPRM* for these applications, and discussed in the paragraphs above and as reflected in the schedule of fees in the final rules.

76. *TV Translators and LPTV Stations:* We adopt the TV Translators and LPTV Stations application fees as proposed in the *NPRM.* A TV translator is a transmitter device which repeats, or transponds, the signal of the television station. The translator retransmits the primary signal to areas it may not reach due to distance or intervening terrain barriers. An LPTV station may retransmit the programs and signals of a TV broadcast station and may

[110] NYX Communications Comments at 1–2; REC Networks Comments at 13.

[111] NYX Communications Comments at 1–2; REC Networks Comments at 13.

[112] *Elimination of Main Studio Rule,* Report and Order, 32 FCC Rcd 8158 (2017).

originate programming. The Commission proposed cost-based application fees for TV translators and LPTV stations in the *NPRM.*

77. TV translator and LPTV applications for new and major change construction permits have the highest level of complexity, and significant engineering and legal analysis is needed in processing these applications. We estimated that the Commission's resources in processing these applications consist of engineer technical review, engineer supervisory review, attorney pleadings review, and attorney written disposition review and that the cost of this process is $775. (When a construction permit is auctioned, this fee will be increased by $575 to reflect the costs of short-form processing, for a total of $1,350 for TV translator and LPTV applications.) We estimated that the Commission's resources in processing a TV Translator or an LPTV application for a new license, which involves some legal analysis and significant engineering review, consist of engineer application review, engineer supervisory review, attorney pleading review, and attorney written disposition review, and that the cost of this process is $215. License assignments, which require significant legal analysis, may involve petitions or objections, after the application is filed. We estimated that the Commission's resources in processing a TV translator or LPTV license assignment application consist of attorney application review, attorney supervisory review, attorney pleading review, and attorney written disposition review, and that the cost of this process is $335.

78. Other applications require only some legal or engineering analysis. License renewals and transfers of control each involve attorney application review, application supervisory review, attorney pleading review, and attorney written disposition review. Some applications for transfer of control subsequently involve petitions or objections after the application is filed. For license renewals, our estimate is that the cost of this process is $145. For transfers of control, our estimate is that the cost of this process is $335.

79. Applications for STA are less complex and involve some engineering and legal analysis. We estimated that the Commission's resources in processing a TV translator and LPTV STA consist of engineer application review, engineer supervisory review, attorney pleading review, and attorney written disposition review. Our estimate is that the cost of this process is $270. Call sign applications have a low level of complexity and involve some legal analysis. We estimated that the Commission's resources in processing a TV translator and LPTV call sign consist of analyst application review. Our estimate is that the cost of this process is $170.

80. We adopt the cost-based fees as proposed in the *NPRM,* as described in the above paragraphs and as reflected in the schedule of fees in the final rules.

81. *TV Booster Stations:* We adopt the proposal in the *NPRM* to remove TV Booster Stations from the application fee schedule because we no longer have applications for this analog service as a result of the digital television transition.

82. *Cable Television Services:* We adopt the Cable Television Services application fees as proposed in the *NPRM.* Cable television service involves the delivery of video programming or other programming service to subscribers via radio frequency signals transmitted through coaxial or fiber-optic cables. The Commission's associated costs for cable service include cable system registration, cable television relay service (CARS) applications, special relief and show cause petitions involving technical matters, requests for rulings on technical matters, and requests for waivers of the rules as well as signal leakage performance reports filed by cable system operators, analysis of aeronautical frequency usage data, and ensuring compliance with Commission requirements.[113] The Commission proposed cost-based application fees for this service in the *NPRM.*

83. We estimated that the Commission's resources in processing an application for a new CARS license consist of analyst application review, engineer application evaluation, and engineer application approval and that the cost of this process is $450. For major license modifications, we estimated that the Commission's resources in processing an application consist of analyst application review, engineer application evaluation, and engineer application approval and that the cost of this process is $345. We estimated that the Commission's processing of an application for a CARS license minor modification consists of analyst application review, analyst application evaluation, and engineer application approval and that the cost of this process is $50.

84. The Commission's processing of an application for a CARS license renewal consists of analyst application review, engineer application evaluation, and engineer application approval. Our estimate is that the cost of this process is $260. The processing of license assignments involves an analyst reviewing the application, an engineer evaluating the application, and an attorney approving the application and our estimate is that the cost of this process is $365. The Commission's processing of an application for a CARS transfer of control application consists of an analyst reviewing the application, an engineer evaluating the application, and an attorney approving the application. Our estimate is that the cost of this process is $465. The Commission processes applications for STA by having an analyst review the application and an engineer evaluate and approve it. Our estimate is that the cost of this process is $225. We estimated that the Commission's resources in processing an application for a special relief petition consist of an analyst reviewing the application, an engineer evaluating it, a supervisory engineer evaluating it, and an attorney approving the application. Our estimate is that the cost of this process is $1,615. We estimated that the Commission's resources in processing an application for a registration statement consist of an analyst reviewing the application, an analyst evaluating the application, and an engineer approving the application. Our estimate is that the cost of this process is $105. We estimate that the Commission's resources in processing an application for an MVPD aeronautical frequency usage notification consist of an analyst reviewing the application, an analyst evaluating the application, and an engineer approving the application and that the cost of this process is $90.

85. We adopt the cost-based fees as proposed in the *NPRM,* as described in the paragraphs above and as reflected in the schedule of fees in the final rules.

86. *Commercial AM and FM Radio Stations:* We adopt the Commercial AM and FM Radio Station application fees as proposed in the *NPRM.* The radio broadcast service includes the commercial and noncommercial educational AM and FM radio services, and also the noncommercial educational low power FM radio service.[114] A party must apply for a construction permit before building a new AM or FM radio

[113] *See* generally Part 76 of the Commission's Rules (''Multichannel Video and Cable Television Service'').

[114] Noncommercial stations are exempt from application fees. Specifically, under the RAY BAUM'S Act, the exemptions are to ''(A) a governmental entity; (B) a nonprofit entity licensed in the Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, or Special Emergency Radio radio services; or (C) a noncommercial radio station or noncommercial television station.''

station. The applicant must demonstrate that it is legally, technically, and financially qualified to construct and operate the station as specified in its application and that the proposed facility will not cause objectionable interference to any other station. Once its application has been granted, the applicant is issued a construction permit, which authorizes the applicant to build the station within a specified period of time, usually three years. After the applicant, now a permittee, builds the station, it must file a license application, in which it certifies that it has constructed the station consistent with the technical and other terms specified in its construction permit. Upon grant of that license application, the Commission issues the new license to operate to the permittee, now a licensee, which authorizes the new licensee to operate for a stated period of time, up to eight years. At the close of this period, the licensee must seek renewal of its license.

87. *Commercial AM Stations.* Applications for new construction permits have the highest level of complexity and significant engineering and legal analysis is needed in processing these applications. Many of these applications result in petitions or objections after the application is filed. We estimated that the Commission's resources in processing an application for a new AM construction permit consist of engineering technical review, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $3,980. Likewise, AM major change applications, which must be filed in windows along with new AM construction permits and have the exact same level of technical and legal review, have a process cost of $3,980.[115] (When a new or major change construction permit is awarded as a result of a winning auction bid, this fee will be increased by $575 to reflect the costs of short-form processing, resulting in a total of $4,555 for auctioned commercial AM construction permit applications.) We estimated that the Commission's resources in processing an application for an AM minor change construction permit consist of engineer technical review, engineer supervisory review, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $1,625.

88. We estimated that the Commission's resources in processing an application for an AM license consist of a legal analyst reviewing application, an attorney reviewing pleadings, and an attorney reviewing written disposition. Some of the applications involve petitions or objections. Our estimate is that the cost of this process is $645. An AM directional antenna application involves some legal analysis and significant engineering review. Some of the applications result in petitions or objections after the application is filed. We estimate that the Commission's resources in processing an application for an AM directional antenna consist of engineer technical review, engineer supervisory review, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $1,260. AM license renewal applications have a medium level of complexity and involve some legal analysis and significant engineering review. Some of the applications result in petitions or objections after the application is filed. We estimate that the Commission's resources in processing an application for renewal consist of a legal analyst reviewing the application, an attorney reviewing pleadings, and an attorney reviewing written disposition. Our estimate is that the cost of this process is $325.

89. Long-form applications for AM license assignments involve significant legal analysis, with some assignments involving petitions or objections, after the application is filed. We estimate that the Commission's resources in processing a long-form application for an AM license assignment consist of a legal analyst reviewing the application, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and an attorney reviewing written disposition. Our estimate is that the cost of this process is $1,005. Short-form license applications have a lower level of complexity and require some, though less, legal analysis than long form applications. We estimate that the Commission's resources in processing a short-form application for an AM license assignment consist of a legal analyst reviewing the application, an attorney reviewing the pleadings, and an attorney reviewing written disposition. Our estimate is that the cost of this process is $425. Long-form applications for AM transfers of control involve significant legal analysis. Some applications for transfer of control involve petitions or objections, after the application is filed. We estimated that the Commission's resources in processing a long-form application for AM transfer of control consist of a legal analyst reviewing the application, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $1,005. Short-form applications for transfer of control involve some legal analysis. We estimated that the Commission's resources in processing a short-form application for transfer of control consist of a legal analyst reviewing the application, an attorney reviewing the pleadings, and an attorney reviewing written disposition and that the cost of this process is $410.

90. AM radio call sign applications involve some legal analysis, and we estimated that the Commission's resources in processing an AM call sign application consist of analyst application review. Our estimate is that the cost of this process is $170. Applications for STA involve some engineering and legal analysis. We estimated that the Commission's resources in processing an AM STA application consist of engineer technical review, attorney pleading review, and supervisory attorney written disposition review and that the cost of this process is $290. AM ownership report applications involve minimal review by Media Bureau staff. We estimated that the Commission's resources in processing an AM ownership report consist of analyst application review and that the cost of this process is $85.

91. We are deleting the AM Main Studio Request application fee from the fee schedule. The Commission proposed removing the Main Studio Request from the application fee schedule as a category because the Commission eliminated the Main Studio Rule.[116] We are also deleting the AM Remote Control fee from the fee schedule. The Commission proposed removing AM Remote Control from the application fee schedule as a category because AM Remote Control licensees are not required to file this form in order to engage in remote control operations.

92. We adopt cost-based application fees as the Commission proposed in the *NPRM* and discussed in the above paragraphs and as reflected in the schedule of fees in the final rules.

93. *Commercial FM Stations.* Applications for new construction permits have the highest level of

[115] The Commission's rules treat applications for new broadcast stations and applications for major changes as falling into the same group. For AM broadcast facilities, *see* 47 CFR 73.3571(a)(1) (''Applications for AM broadcast facilities are divided into three groups. (1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. . . .'').

[116] *Elimination of Main Studio Rule,* Report and Order, 32 FCC Rcd 8158 (2017).

complexity and significant engineering and legal analysis is needed in processing these applications. Many of these applications result in petitions or objections after the application is filed. We estimated that the Commission's resources in processing an application for a new FM construction permit consist of engineering technical review, supervisory engineer review, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and a supervisory attorney reviewing written disposition and that the cost of this process is $3,295. Likewise, FM major change applications, which must be filed in windows along with new FM construction permits and have the exact same level of technical and legal review, have a process cost of $3,295. [117] (When a new or major change construction permit is awarded as a result of a winning auction bid, this fee will be increased by $575 to reflect the costs of short-form processing, resulting a total of $3,870 for auctioned commercial FM construction permit applications.) We estimated that the Commission's resources in processing an application for an FM minor modification construction permit consist of engineer review, engineer supervisory review, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and a supervisory attorney reviewing written disposition and that the cost of this process is $1,265.

94. We estimated that the Commission's resources in processing an application for an FM license consist of an analyst reviewing the application, engineering review, an attorney reviewing pleadings, and a supervisory attorney reviewing written disposition. Some of the applications involve petitions or objections after the application is filed. We estimated that the cost of this process is $235. An application for an FM directional antenna involves some legal analysis and significant engineering review. Some of the applications result in petitions or objections after the application is filed. We estimated that the Commission's resources in processing an application for an FM directional antenna consist of engineer review, engineer supervisory review, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and a supervisory attorney reviewing written disposition and that the cost of this process is $630.

95. An application for an FM license involves some legal analysis and significant engineering review. Some of the applications result in petitions or objections after the application is filed. We estimated that the Commission's resources in processing an application for FM license renewal consist of a legal analyst reviewing the application, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $325. Long-form applications for FM license assignment involve significant legal analysis. Some of these applications involve petitions or objections, after the application is filed. We estimated that the Commission's resources in processing a long-form application for an FM assignment consist of a legal analyst reviewing the application, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $1,005. Short-form applications for FM license assignment involve some legal analysis. We estimated that the Commission's resources in processing a short-form application for an FM license assignment consist of a legal analyst reviewing the application, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $425. Long-form applications for FM transfers of control involve significant legal analysis. Some applications for transfer of control involve petitions or objections after the application is filed. We estimate that the Commission's resources in processing a long-form application for FM transfer of control consist of a legal analyst reviewing application, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $1,005. Short-form applications for FM transfers involve some legal analysis. We estimated that the Commission's resources in processing a short form application for FM transfer of control consist of a legal analyst reviewing the application, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $425.

96. Applications for FM call signs involve some legal analysis. We estimated that the Commission's resources in processing an FM call sign consist of analyst application review and that the cost of this process is $170. Applications for STA involve some engineering and legal analysis. We estimated that the Commission's resources in processing an FM STA application consist of engineer technical review, supervisory engineer review, attorney pleading review, and supervisory attorney written disposition review and that the cost of this process is $210. Applications for FM ownership report involve minimal review by Media Bureau staff. We estimated that the Commission's resources in processing an application for FM ownership report consist of analyst application review and that the cost of this process is $85.

97. A petition for rulemaking to amend the FM Table of Allotments for a new community of license has a high level of complexity and involves significant legal analysis and engineering review. We estimated that the Commission's resources in processing an FM petition for rulemaking consist of engineering technical review, an attorney reviewing multiple ownership, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $3,180.

98. We are deleting the FM Main Studio Request application fee from the fee schedule. The Commission proposed removing the Main Studio Request from the application fee schedule as a category because the Commission eliminated the Main Studio Rule.[118]

99. We adopt the cost-based application fees for commercial FM stations as the Commission proposed in the *NPRM* as described above and as reflected in the schedule of fees in the final rules.

100. *FM Translators and Boosters.* FM translators and FM boosters retransmit the signal of another radio broadcast station without significantly altering the characteristics of the incoming signal other than its frequency and amplitude. This service was first created in 1970 to allow FM stations to provide supplementary service to areas in which direct reception of radio service is unsatisfactory due to distance or terrain barriers. Translator stations simultaneously re-broadcast the signal of a primary station on a different frequency. Those translator stations that provide service within the primary station's protected service area are classified as fill-in stations. Fill-in translators can be owned by the main station or by an independent entity. FM booster stations must operate on the same frequency as the main station. Booster stations must be owned by the licensee of the primary FM station. Booster stations are also restricted in that the service contour of the booster

[117] *See* 47 CFR 73.3572(a)(1) (''Applications for FM broadcast stations are divided into two groups: (1) In the first group are applications for new stations or for major changes of authorized stations . . . .'').

[118] *Elimination of Main Studio Rule,* Report and Order, 32 FCC Rcd 8158 (2017).

may not exceed the protected service contour of the primary station. [119] We proposed cost-based fees in the *NPRM.* One commenter, REC Networks, agrees with our proposal to impose a $210 filing fee on FM translator minor modifications, and states that it will discourage warehousing of spectrum.[120]

101. An application for either a new FM translator or an FM booster construction permit involves legal analysis and significant engineering review. Some applications may involve petitions or objections after the application is filed. We estimated that the Commission's resources in processing either an application for a new FM translator or an FM booster construction permit consist of engineering technical review, an attorney reviewing pleadings, and a supervisory attorney reviewing written disposition and that the cost of this process is $705 for either a new FM translator or an FM booster construction permit. Likewise, FM translator major change applications, which must be filed in windows along with new FM translator construction permits and have the exact same level of technical and legal review, have a process cost of $705.[121] (When a new or major change construction permit for an FM translator application is awarded as a result of a winning auction bid, this fee will be increased by $575 to reflect the costs of short-form processing, for a total of $1,280 for FM translator applications.[122]

102. There is no current fee for an application for a minor change FM translator construction permit. Over the past 20 years, the definition of a minor change for FM translators has changed significantly. At the time this category of application was originally created, the definition of minor change was so narrow that very few such applications could be submitted. Furthermore, because of the limited circumstances under which they could be filed, the engineering analysis required to review them was minimal. The rule has been revised since that time to significantly increase the situations that can be filed as minor. These FM translator minor change applications involve some legal analysis and significant engineering review. Some applications will involve petitions or objections, after the application is filed. We estimated that the Commission's resources in processing an FM translator minor modification application consist of engineer technical review, supervisory engineer review, attorney pleading review, and supervisory attorney written disposition review and that the cost of this process is $210.

103. Applications for either new FM translator or FM booster licenses involve some engineering analysis. Some applications may involve petitions or objections, after the application is filed. We estimated that the Commission's resources in processing an application for either a new FM translator license or a new FM booster license consist of an analyst reviewing the application, an engineer supervising, an attorney reviewing pleadings, and a supervisory attorney reviewing written disposition. Our estimate is that the cost of this process is $180 for either a new FM translator or a new FM booster license. Applications for renewal of existing FM translator or FM booster licenses have a low level of complexity. We estimated that the Commission's resources in processing either type of application consist of a legal analyst reviewing the application, an attorney supervising, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process for renewal of either an FM translator or an FM booster is $175.

104. Applications for either an FM translator or FM booster STA involve some engineering and legal analysis. We estimated that the Commission's resources in processing either type of STA application consist of engineering technical review, attorney pleading review, and supervisory attorney written disposition review and that the cost of this process is $170 for either an FM translator STA or an FM booster STA.

105. Applications for FM translator license assignments involve some legal analysis. Some assignments involve petitions or objections, after the application is filed. We estimated that the Commission's resources in processing an application for an FM translator assignment consist of a legal analyst reviewing the application, an attorney supervising, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $290. Applications for FM translator transfers of control involve some legal analysis. Some assignments involve petitions or objections, after the application is filed. We estimated that the Commission's resources in processing an application for an FM translator transfer of control consist of a legal analyst reviewing the application, an attorney supervising, an attorney reviewing pleadings, and an attorney reviewing written disposition and that the cost of this process is $290.

106. We adopt the cost-based application fees as proposed by the Commission in the *NPRM* and as described above and reflected in the schedule of fees in the final rules.

107. *Media Services Foreign Ownership Petitions:* We adopt the Foreign Ownership Petitions application fees as proposed in the *NPRM.* In the *NPRM,* the Commission proposed adding a new category for foreign ownership petitions for declaratory ruling filed pursuant to section 310(b)(4) of the Act.[123] This fee is a separate fee in addition to the fee required for the underlying application, if any.[124] Since 2016, the Media Bureau has processed petitions for declaratory rulings to exceed the section 310(b)(4) foreign ownership benchmark under the streamlined foreign ownership rules and procedures.[125]

108. Currently, there is no fee for a section 310(b)(4) petition for declaratory ruling. Typically, the petition includes complex ownership structures and requires substantial review by staff. We estimated the Commission's resources in processing a section 310(b) petition for declaratory ruling consist of attorney legal review, attorney coordination with other agencies, attorney pleading review, and attorney written disposition review and that the cost of this process is $2,485. After analysis and review of the record, we adopt the proposed cost-based fee of $2,485.

109. *Equipment Approval Fees:* We adopt the Equipment Approval application fee category proposed in the *NPRM,* but at a fee of $35, rather than $50 as proposed in the *NPRM.* The Office of Engineering and Technology administers the Equipment Authorization program, in addition to the Experimental Radio Service. The

[119] *Id.*

[120] REC Networks Comments at 12.

[121] 47 CFR 74.1233(a)(1) (''Applications for FM translator and booster stations are divided into two groups: (1)(i) In the first group are applications for new stations or for major changes in the facilities of authorized stations.'').

[122] FM booster construction permits are not auctioned.

[123] Section 310(b)(4) establishes a 25% benchmark for investment by foreign individuals, governments, and corporations in U.S.-organized entities that directly or indirectly control a broadcast, common carrier or aeronautical radio station licensee if the Commission finds that the public interest would be served by rejecting foreign ownership above that benchmark. 47 U.S.C. 310(b)(4).

[124] This fee for the initial filing of the petition for declaratory ruling. Amendments and supplements thereto occur with great frequency and will not require an additional fee.

[125] *Review of Foreign Ownership Policies for Broadcast, Common Carrier, and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended,* GN Docket 15–236, Report and Order, 31 FCC Rcd 11272 (2016). The procedures are set out in rule §§ 1.5000 to 1.5004, 47 CFR 1.5000–1.5004.

equipment authorization program is one of the principal ways the Commission ensures that RF devices operate effectively without causing harmful interference and otherwise comply with the Commission's rules. All RF devices subject to equipment authorization must comply with the Commission's technical requirements prior to importation or marketing. Equipment that contains an RF device must be authorized in accordance with the appropriate procedures specified in part 2, subpart J of the Commission's rules. These requirements not only minimize the potential for harmful interference, but also ensure that the equipment complies with the rules that address other policy objectives—such as human RF exposure limits and hearing aid compatibility with wireless handsets.

110. The equipment approval services for certification were shifted from the Commission to Telecommunications Certification Bodies. Since 1999, those services have been provided by accredited Telecommunications Certification Bodies which are approved by the Commission and the Commission retains oversight of the program through routine guidance to the Telecommunications Certification Bodies and test labs as well as participating in regular teleconferences as well as Telecommunications Certification Bodies workshops. Additionally, the Commission no longer performs advance approval of subscription TV systems. As these services are no longer performed by the Office of Engineering and Technology, we proposed to remove these categories from the application fee schedule.

111. The fee for an assignment of grantee code is assessed automatically after an applicant (or its authorized agent) files for a grantee code on the FCC Equipment Authorization Electronic Filing System website. Approximately 4,000 new grantee codes are assigned each year. This process generally does not require intervention by Commission staff. However, staff must intervene if an applicant encounters a payment issue or if special action is necessary after a grantee code is assigned, such as a grantee name change or a transfer of control transaction. Such issues arise approximately 500 to 700 times per year and staff time to address these issues, when required, is nominal. For this largely automated process, we proposed an application fee of $50 to cover staff costs associated with name change requests, transfers of control issues, and payment problems that arise. Similar to our treatment of highly automated processes for wireless fees, we have reviewed the record and determined that a lower fee is appropriate and adopt an application fee of $35 for this process.

112. *Domestic Service Fees:* The Commission processes a wide range of applications not directly related to the issuance of licenses. In the *NPRM,* the Commission proposed to update the application fees for domestic matters. We adopt new fees for domestic section 214 applications, VoIP numbering applications, tariff filings, applications for special permission for waiver of tariff rules, long-form applications for Universal Service Fund (USF) auction winners, and accounting applications. We also consolidate the fees for Formal Complaints and Pole Attachment Complaints into a single new application fee; and we adopt a new fee for Communications Assistance for Law Enforcement Act (CALEA) petitions.

113. *Transfers of Control and STA.* We adopt the transfer of control fees as proposed in the *NPRM.*[126] Under §§ s 63.03–63.04 of the Commission's rules, a carrier seeking domestic section 214 authorization for a transfer of control must file an application providing certain information about the parties and the transaction. The Commission proposed to rename this application as ''Domestic 214 Applications-Part 63 Transfers of Control'' to more clearly specify the applications subject to the fee.[127] We adopt the name change and the cost-based fees as proposed in the *NPRM* for these applications.[128] We also adopt the cost-based fee of $675 for STA requests filed by domestic wireline carriers that are associated with section 214 transfer of control applications. As noted in the *NPRM,* this fee is consistent with the fee for similar 214 STA requests processed by the International Bureau.[129]

114. *Discontinuance of Service.* We adopt the discontinuance of service fees as proposed in the *NPRM.*[130] Under § 63.71 of the Commission's rules, any domestic carrier that seeks to discontinue, reduce, or impair service must provide notice, as specified in § 63.71(a), and file an application with the Commission. In the *NPRM,* the Commission proposed to add ''Domestic 214 Applications-Part 63 Discontinuances'' as a service requiring an application fee in § 1.1105 of its rules and to set that application fee based on its cost estimates.[131] USTelecom suggests that we clarify the types of section 214 discontinuance filings subject to the new discontinuance fee and we expand our description from the *NPRM* to address this request.[132]

115. Similar to the processing of the other domestic section 214 applications required by Part 63 of our rules, processing section 214 discontinuance applications includes industry analyst processing and review, staff attorney review, and supervisory review. The Commission estimated that this process involves $1,230 in costs for review and coordination on section 214 discontinuance filings that will typically require more time and resources (Non-Standard Review), such as those that address technology transitions subject to the adequate replacement test under § 63.71(f)(2)(i), those that address technology transitions that are not subject to any streamlined processing, and those filed by dominant carriers that are subject to a 60-day auto grant period under the Commission's rules. The Commission estimated that this process involves $335 in costs for review and coordination on all other domestic 214 discontinuance filings that will typically require less time and fewer resources (Standard Streamlined Review), including streamlined filings from non-dominant carriers and interconnected VoIP service providers, filings by both dominant and non-dominant carriers for the emergency discontinuance of service under § 63.63, filings that meet the alternative options test for streamlined processing under § 63.71(f)(2)(ii), filings subject to copper retirement auto grant under § 63.71(i), and filings by both dominant and non-dominant carriers for the discontinuance or grandfathering of voice or data services under § 63.71(k) or § 63.71(l). We adopt the application fees proposed in the *NPRM*[133] and as reflected in the schedule of fees in the final rules.

116. *Voice over internet Protocol (VoIP) Numbering.* We adopt the VoIP Numbering fees as proposed in the

[126] 85 FR 65577 (October 15, 2020) at para. 93–94.

[127] *See* 85 FR 65577 (October 15, 2020) at para. 93. Domestic common carriers under section 214 of the Act are authorized to undertake pro forma transactions, with only a notice filing required in certain very limited circumstances. 47 CFR 63.03(d). The Commission's fees for domestic section 214 transfer of control applications therefore cover only substantive transactions for which approval is required.

[128] 85 FR 65577 (October 15, 2020) at para. 93–94.

[129] 85 FR 65577 (October 15, 2020) at para. 95.

[130] 85 FR 65577 (October 15, 2020) at para. 97–98.

[131] 85 FR 65577 (October 15, 2020) at para. 97.

[132] USTelecom Comments at 4.

[133] 85 FR 65577 (October 15, 2020) at para. 98.

*NPRM.*[134] Interconnected VoIP providers seeking to obtain numbering resources directly from the North American Numbering Plan Administrator (or the Pooling Administrator) must first receive authorization from the Commission. This nationwide authorization is designed to assess the eligibility of an interconnected VoIP provider to obtain numbers directly and will fulfill the requirement under the Commission's rules to provide evidence of authorization to provide service. Under § 52.15(g)(2) and (3), a VoIP provider must file an application for numbering resources.[135] In the *NPRM,* the Commission proposed to add ''Interconnected VoIP Numbering Authorization Applications-Part 51'' as a service requiring an application fee in § 1.1105 of its rules and set that application fee based on its cost estimates. We adopt the proposed fee of $1,330.[136]

117. *Tariffs.* We adopt the tariff fees as proposed in the *NPRM* along with clarifications to address commenter concerns. Tariffs contain the rates, terms, and conditions of certain services provided by telecommunications carriers. Tariffs for interstate local access service are filed by local exchange carriers (LECs). The access services include end user access, switched access, and special access. Tariffs are typically filed under a process that gives the public 15 days' notice on proposed price increases and changes in terms and conditions; and seven days' notice on proposed price reductions. Carriers file tariffs using the Commission's Electronic Tariff Filing System. Tariff filings are reviewed by staff and by industry. If staff takes no action, filings become effective and may be deemed lawful.[137] Staff may approve, suspend or reject tariffs.

118. USTelecom seeks clarification of several of the proposals relating to tariffing. First, it requests additional explanation of what constitutes an ''annual filing.'' [138] We clarify that the annual access charge tariff that is filed to become effective on July 1 each year is the ''annual filing'' that is subject to the fee.[139] Second, USTelecom seeks further clarification as to what constitutes a ''restructured rate plan.'' [140] A restructured filing is a price cap tariff filing that meets the definition of restructured service as defined in section 61.3(mm). Finally, USTelecom seeks clarification of whether the establishment of two categories of complex tariff filers, price cap LECs and entities involving more than 100 LECs (Complex Large) and a second category for other entities filing a complex tariff (Complex Small), means that all filings by price cap LECs are complex large filings.[141] We clarify that the fee for filings designated as complex large are applicable to all price cap carriers. We adopt the cost-based fees as proposed in the *NPRM* for these applications and as reflected in the schedule of fees in the final rules.

119. *Waivers.* We eliminate the fees for part 61 and part 69 waivers as proposed in the *NPRM.* Parties may file petitions seeking waivers of the Commission's rules in parts 61 and 69. As a general matter, the Commission may waive its rules for good cause shown.[142] A waiver may be granted if (1) the waiver would better serve the public interest than would application of the rule; and (2) special circumstances warrant a deviation from the general rule.[143] Generally, the Commission, or the Bureau through delegated authority, may waive Commission rules if the relief requested would not undermine the rule's policy objectives and would otherwise serve the public interest.[144] Because parties may generally seek waiver of many of our rules under § 1.3 of the Commission's rules without paying a fee, we proposed to eliminate the fees associated with the general part 61 and part 69 waiver requests. We adopt that proposal.

120. *Universal Service Fund Auctions.* We adopt a single fee for the universal service fund auction applications as proposed in the *NPRM.* The Commission does not currently apply a fee to USF applications. In the *NPRM,* the Commission proposed to adopt a single cost-based application fee that only the winning bidders would pay, *i.e.,* only once all filings associated with an application including at the short-form stage, during bidding, and through the long-form stage, are complete. For the same reasons we adopt a single fee for spectrum auctions and broadcast service auctions, we adopt the proposed combined cost-based fee of $2,965.

121. *Accounting—depreciation.* We have not had an application for a depreciation update study in many years and we adopt our proposal to eliminate these application fees from the fee schedule.

122. *Waiver of accounting rules.* We adopt the waiver of accounting rule fees as proposed in the *NPRM.* The Commission has a complex set of accounting requirements. Parties may petition for a waiver of part 69 accounting rules, part 32 accounting rules, part 43 reporting requirements, part 64 allocation of costs rules, part 65 rate of return rules, or part 36 of the separation rules. The Commission has a complex set of accounting requirements and proposes assessment of a fee for requests for deviation from such requirements. In the *NPRM,* the Commission proposed cost-based fees, explaining that petitions for waiver of these requirements are reviewed by staff who draft a bureau or Commission level order addressing the petition.[145] We adopt the proposed cost-based fee of $4,415 for a waiver of our accounting rules.

123. *Informal Consumer Complaints.* We adopt the proposal from the *NPRM* to assess no application fee for informal complaints. We did not receive any comments on this proposal. The Commission processes informal consumer complaints through the Consumer and Governmental Affairs Bureau's Consumer Complaint Center.[146] The informal consumer complaint process provides consumers with an effective and free way to raise issues with their providers. Informal consumer complaints involving billing and service issues are served on the consumer's provider. The provider is required to respond to the consumer with a copy to the Commission within 30 days. Certain informal consumer complaints that are not filed against a provider, including unwanted call complaints, are shared among Commission bureaus and offices to inform policy and potential enforcement actions. The collective data we receive from informal consumer complaints helps the Commission keep a pulse on what consumers are experiencing, may lead to enforcement investigations, and serves as a deterrent to the companies

[134] 85 FR 65577–65578 (October 15, 2020) at paras. 99–100.

[135] *Id.* 52.15(g)(2) and (3). Section 52.15(g)(3) provides: ''Commission authorization process. A provider of interconnected VoIP service may show a Commission authorization obtained pursuant to this paragraph as evidence that it is authorized to provide service under paragraph (g)(2) of this section.''

[136] 85 FR 65577–65578 (October 15, 2020) at para. 100.

[137] *See* 47 U.S.C. 204(a)(3).

[138] USTelecom Comments at 2–3.

[139] *Id.*

[140] *Id.* at 3.

[141] USTelecom Comments at 3.

[142] 47 CFR 1.3; *WAIT Radio* v. *FCC,* 418 F.2d 1153 (D.C. Cir. 1969), appeal after remand, 459 F.2d 1203 (D.C. Cir. 1972), cert. denied, 409 U.S. 1027 (1972); *Northeast Cellular Tel. Co.* v. *FCC,* 897 F.2d 1164 (D.C. Cir. 1990).

[143] *Northeast Cellular,* 897 F.2d at 1166.

[144] *WAIT Radio,* 418 F.2d at 1157.

[145] 85 FR 65579 (October 15, 2020) at para. 115.

[146] *See* FCC Consumer Complaint Center, *https://consumercomplaints.fcc.gov/hc/en-us.*

we regulate. Informal complaint data, including unwanted call data, is available to the public through the Consumer Complaint Data Center and is a useful source of information for the public and industry. For example, voice service providers and third-party analytics companies use this information in their call blocking and labeling services provided to consumers. As the Commission discussed in the *NPRM,* informal complaints are not applications and we are not adopting an informal complaint filing fee.

124. *Formal Complaints and Pole Attachment Complaints.* We adopt the formal complaint and pole attachment complaint fees as proposed in the *NPRM.* Section 208 of the Act provides for the filing of formal complaints against common carriers. Section 224 of the Act states that the Commission has a duty to ensure that the rates, terms, and conditions for pole attachments are just and reasonable, and that cable television systems and telecommunications carriers have non-discriminatory access to utility poles, ducts, conduits, and rights-of-way. Sections 1.720–1.740 and 1.1401–1.1414 of the Commission's rules govern formal section 208 and section 224 complaints. The rules require the filing of a complaint, an answer, a reply, and often discovery, motions, and briefs. A formal complaint must contain as much factual support as possible at the filing stage, including specific facts and proof regarding all claims in the complaint.

125. Filing of the application for a formal section 208 complaint or a section 224 pole attachment complaint is automated using the Commission's ECFS's Non-Docketed Filing portal. In nearly all instances, the FCC Fee Filer system is used separately to collect the fee. Staff retrieves each filed formal complaint and pole attachment complaint from the ECFS Non-Docketed Filing portal and confirms payment. Staff then reviews the complaint for general conformance with the Commission's complaint rules to determine if it is accepted for adjudication. If the formal complaint or pole attachment complaint is accepted, staff arranges for its placement in a case-specific ECFS docket. Staff drafts a letter to the parties indicating that the filing has been accepted or rejected and posts that letter in ECFS.

126. In the *NPRM,* the Commission proposed to consolidate the section 208 formal complaints and section 224 pole attachment complaints in the new section 8 application fee schedule, and proposed a cost-based fee of $540. One commenter, Ormos, contends that the fee for formal complaints should be lower but does not dispute the costs of adjudicating such complaints nor explain how we could lower the fee below costs under the statutory standard.[147] We are required by the RAY BAUM'S Act to adopt a cost-based fee and the fee we are adopting is based on the significant work performed by staff in handling formal complaints. We therefore adopt the proposed fee of $540 for formal complaints and pole attachment complaints based on the Commission's estimated costs as described in the *NPRM.*[148]

127. *Accounting and Audits and Agreed upon Procedures Engagement.* We are adopting our proposal to eliminate field audits and agreed upon procedures engagements from the application fee schedule because no applications have been filed in many years.

128. *Petitions regarding Law Enforcement Assistance Capability.* We adopt the cost-based fee of $6,945 proposed in the *NPRM* for petitions regarding law enforcement assistance capability.[149] CALEA preserves the ability of law enforcement agencies to conduct lawfully authorized electronic surveillance while protecting the privacy of information outside the scope of the authorization. CALEA imposes law enforcement assistance capability requirements on common carriers as the Commission has interpreted that term under CALEA.[150] Any person may petition the Commission to issue technical standards for capability assistance that the person believes are deficient[151] and telecommunications carriers and other interested persons may petition for a determination of whether an assistance capability is ''reasonably achievable,'' and the Commission must reach a determination on such petitions within one year.[152] In the *NPRM,* the Commission proposed a cost-based fee of $6,945.[153] We adopt the proposed cost-based fee of $6,945 for this application.

129. *International Service Fee.* The Commission sought comment in the *NPRM* on cost-based application fees for international services, including fees for earth station and space station applications and proposals to create a separate fee category for applications related to cable landing licenses, a new category for section 310(b) foreign ownership review, and fees for international services that do not currently have an application fee, such as foreign carrier affiliation notifications, and requests to become a recognized operating agency. The Commission also proposed to eliminate some fees and consolidate fees for earth stations and space stations. We address these issues in turn.

130. *International Cable Landing License.* We adopt the proposed cost-based cable landing license fees in the *NPRM* with one change to reduce the cost of a pro forma assignment or transfer of control. To land or operate a submarine cable in the United States, submarine cable operators must obtain a cable landing license from the Commission pursuant to the Cable Landing Licensing Act of 1921 and Executive Order No. 10530.[154] The Commission also authorizes assignments or transfers of existing cable landing licenses and modifications of licenses. The Commission coordinates the applications with the Department of State and any other federal agencies, as necessary. The requirements for filing applications for new cable landing licenses and assignments, transfers of control and modification of existing cable landing licenses are set out in § 1.767 of the Commission's rules. Currently, there are different application fees for new licenses based on whether the license is for a common carrier or for a non-common carrier license.[155] There are also fees for substantive assignments or transfers of control of a license and requests for STA.[156]

131. In the *NPRM,* we proposed to create a new cable landing license

[147] Ormas Comments at 7.

[148] 85 FR 65580 (October 15, 2020) at para. 121.

[149] 85 FR 65580 (October 15, 2020) at para. 124.

[150] *See* 47 U.S.C. 1001(8)(B)(ii); *Communications Assistance for Law Enforcement and Broadband Access and Services,* Second Report and Order and Memorandum Opinion and Order, 21 FCC Rcd 5360 (2006).

[151] *Id.* Section 1006(b).

[152] *Id.* Section 1008(b)(1).

[153] 85 FR 65580 (October 15, 2020) at para. 124. (estimating the tasks that are involved in reviewing a typical CALEA petition).

[154] Executive Order No. 10530 delegates to the Commission the President's authority under the Cable Landing License Act of 1921 adding that ''no such license shall be granted or revoked by the Commission except after obtaining approval of the Secretary of State and such advice from any executive branch department or establishment of the Government as the Commission may deem necessary.'' Exec. Ord. No. 10530 5(a), reprinted as amended in 3 U.S.C. 301.

[155] There is one fee for an application for a non-common carrier system ($19,855). There are two application fees for a common carrier cable system, one for the cable application ($2,005) and another for the overseas cable construction ($17,850), which add up to the same amount as the fee for a non-common carrier application.

[156] Currently, there is no application fee for pro forma assignments and transfers of a license, foreign carrier affiliation notifications, amendments, modifications, or Landing Point Notifications (LPNs). We did not propose fees for amendments or LPNs since these filings are made as part of a pending application.

category. Although historically the application fees for cable landing licenses have been included as part of the fee category for section 214 applications,[157] the processing of those applications differs significantly from the processing of international section 214 applications and warrants a separate filing fee category; for example, we are required to coordinate cable landing license applications with the State Department and new cable landing license applications typically have multiple applicants seeking to become licensees, which require more extensive staff review than those for international section 214 applications.

132. We adopt the proposal in the *NPRM* and make one change to the proposed cost-based fees. We reduce the fee for a pro forma assignment or transfer of control of a cable landing license to $400 from $675 based on our re-evaluation of the cost of processing such an application. In the *NPRM,* we estimated that the Commission's resources in processing a pro forma application to assign or transfer control of a cable landing license consist of the following: Industry analyst processing and review, staff attorney review, and supervisory review, with an estimate of $675 in costs.[158] After carefully re-examining our estimate for processing pro forma applications in general,[159] we believe that a $400 fee more accurately reflects the cost of processing a pro forma assignment or transfer of control of a cable landing license. The review of substantive assignment or transfer of control applications typically takes staff significantly more time and effort compared to pro forma assignments. Accordingly, we find that our initial estimate of the cost for substantive transactions remains valid and reflects accurately our average cost of reviewing substantive assignments and transfer of control applications. This reduction also brings this fee to a level consistent with other similar cost-based fees adopted herein, including the pro forma assignment or transfer of control application fees applicable to international section 214 authorizations, earth stations and space stations.[160] Finally, any concerns regarding disproportionate fees for these pro forma assignment or transfer of control transactions are sufficiently mitigated. Accordingly, we adopt these new cost-based fees for cable landing license applications as proposed in the *NPRM* and modified in the paragraphs above and as reflected in the schedule of fees in the final rules. These fees are all assessed on a per application basis.

133. *International Section 214 Applications.* We adopt the proposed cost-based international section 214 fees in the *NPRM* for new authorizations, substantive assignments and transfers of control, pro forma assignments and transfers of control, foreign carrier affiliation notifications, modifications, STAs, waivers, and discontinuances of service. We adopt, however, one change from the fees proposed and reduce the cost of an international section 214 pro forma assignment or transfer of control.

134. Any entity that seeks to provide U.S.-international common carrier service must obtain prior Commission approval pursuant to section 214 of the Communications Act by filing an international section 214 application. The application must contain the information required by part 63 of the Commission's rules. The requirements for filing an application for an international section 214 authorization are set out in § 63.18 of the Commission's rules. The requirements for an assignment or transfer of control of such an authorization, in turn, are set out in § 63.24. Currently, there is a fee for new international section 214 authorizations, for substantive assignments and transfers of control of authorizations, and requests for STA. In the *NPRM,* the Commission proposed new cost-based fees, including new fee categories for section 214 applications.

135. USTelecom argues that the Commission should revise the fees for international section 214 pro forma transfer of control notifications and instead of creating a new fee, consider a nominal fee that better aligns with the actual operational costs.[161] According to USTelecom, the pro forma transfer of control notifications clarify current license holder information and should not require substantive review by Commission staff.[162] Further, USTelecom suggests, the Commission should also require limiting the expense for multiple pro forma transfer notifications filed for the same pro forma transaction—arguing that there is no cost-based justification as to why the multipliers to review 10 essentially identical applications based on a separate license are 10 times the cost.[163]

136. After careful consideration of the resources expended in processing pro forma applications for assignment or transfer of control of an international 214 authorizations related to the same pro forma transaction, we are not convinced by USTelecom's arguments that a nominal fee would be appropriate and cost based. We review and process each application separately while ensuring each application's accuracy involving the associated licenses as well as its compliance with our rules. Accordingly, we reject USTelecom's argument that multiple applications (including similar information) should not be subject to multiple fees. After further evaluation, we conclude, however, that in the context of pro forma applications, and after staff assessment, a lower fee of $400 would reflect more accurately our average processing cost than the proposed $675. The review of substantive assignment or transfer of control applications typically take staff significantly more time and effort compared to pro forma assignments; accordingly, we find that our initial estimates of cost for substantive transactions remain valid and reflect accurately our average cost of reviewing substantive assignments and transfer of control applications. The lower amount continues, however, to take into account industry analyst processing and review, staff attorney review, supervisory review and the need to coordinate the application with other bureaus or offices within the Commission or federal agencies, as necessary.[164] Such a fee also would be consistent with the fee for a pro forma assignment or transfer of control that we are adopting for cable landing licenses, earth stations and space stations.[165]

137. We adopt the cost-based fees, assessed per application, for section 214 applications proposed in the *NPRM* as modified in the paragraphs above and as reflected in the schedule of fees in the final rules.

138. *Foreign Ownership Petitions for Declaratory Ruling.* We adopt the cost-based fees proposed in the *NPRM* for section 310(b) petitions for declaratory ruling and waivers. Section 310(b) of the Communications Act contains specific restrictions on who can hold a broadcast, common carrier, or aeronautical radio station license. Section 310(b)(3) prohibits foreign individuals, governments and

[157] *See* 47 U.S.C. 158(g) (Schedule of Application Fees) (2017) (setting forth under the category of section 214 applications separate application fees for common carrier and non-common carrier submarine cable landing licenses).

[158] 85 FR 65581 (October 15, 2020) at para. 131.

[159] 85 FR 65580–65581 (October 15, 2020) at paras. 126–127.

[160] *See infra* paras. 138, 156, 172.

[161] USTelecom Comments at 6–7.

[162] *Id.* at 7.

[163] *Id.*

[164] 85 FR 65582 (October 15, 2020) at para. 139.

[165] *See infra* at paras. 155, 171. As noted above, we are also changing the fee for a pro forma assignment or transfer of control of a cable landing license to $400 to be consistent with the fee for a pro forma application for an international section 214 authorization. *See supra* at para. 132.

corporations from owning more than 20% of the capital stock of a broadcast, common carrier, or aeronautical radio station licensee. Section 310(b)(4) establishes a 25% benchmark for investment by foreign individuals, governments and corporations in U.S.-organized entities that directly or indirectly control a broadcast, common carrier or aeronautical radio station licensee, unless the Commission finds that foreign ownership above that benchmark would serve the public interest. The Commission's rules set out procedures for seeking prior Commission approval to exceed the benchmarks set out in the statute. The International Bureau processes petitions for declaratory ruling seeking approval to exceed the benchmarks set out in sections 310(b)(3) and 310(b)(4) for common carrier wireless or aeronautical licenses.[166] Historically, there was no fee for a 310(b) petition for declaratory ruling. In the *NPRM,* we proposed new cost-based fees. We received no objections in the record to these proposals and we conclude that the fees proposed in the *NPRM* are reasonable and cost-based. We adopt these new cost-based fees, assessed per application, as proposed in the *NPRM* discussed in the paragraphs above and as reflected in the schedule of fees in the final rules.

139. *Recognized Operating Agency.* We adopt the cost-based recognized operating agency fees as proposed in the *NPRM.* Any individual or corporation, other than a government establishment, that seeks recognition to operate an international public correspondence or radio service capable of causing harmful interference and upon which are imposed obligations provided for in Article 44 of the International Telecommunication Convention, must file an recognized operating agency application via the Commission's International Bureau Filing System (IBFS). The purpose of the recognized operating agency is to assure members of the International Telecommunication Union (ITU) that private communications entities that are not themselves parties to the Convention will nonetheless be required to observe the rights of other member states under the treaty. If the application is approved, a recommendation letter is sent to the State Department.[167] Currently, there is a fee for a recognized operating agency application but no fees for any associated requests, such as waivers. In the *NPRM,* the Commission proposed new cost-based fees for ROA applications and waiver requests. We received no objections in the record on these proposals and fees. We conclude that the fees proposed in the *NPRM* and discussed above are reasonable and cost-based. We adopt these fees that are assessed on a per application basis as proposed in the *NPRM* and discussed in the paragraphs above and as reflected in the schedule of fees in the final rules.

140. *Data Network Identification Code.* We adopt the cost-based data network identification code fees proposed in the *NPRM* for the data network identification code application and a waiver of our rules. The data network identification code (DNIC) is a four-digit number used to identify data networks and is the central device of the international data numbering plan developed by the ITU and set forth in Recommendation X.121.[168] The primary function of the DNIC is to identify and to facilitate routing of traffic to a particular data-network subscriber. Any public network provider seeking to obtain a DNIC must file an application through IBFS for a request for assignment of a DNIC. Currently, there is no fee for a DNIC. In the *NPRM,* we proposed new cost-based fees of $785 and a fee for Waivers of $335. We received no objections in the record on these proposals. We conclude that the fees proposed in the *NPRM* and discussed above are reasonable and cost-based. We adopt the cost-based fees, assessed on a per application basis, as proposed in the *NPRM* and discussed in the paragraphs above and as reflected in the schedule of fees in the final rules.

141. *International Signaling Point Code.* We adopt the cost-based fees proposed in the *NPRM* for international signaling point code (ISPC) applications as well as transfers of control and modifications. The ITU defines a signaling point code as a ''part of the label in a signalling [sic] message that uniquely identifies each signalling point which belongs to the international signalling network'' and is used for signaling message routing and identification of signaling points at the international level.[169] Such signaling points are within a Signaling System 7 (SS7) switch. For this reason, only carriers that operate their own switch would need a signaling point code. Carriers that need an ISPC must file an application through IBFS for a Request for Assignment of International Signaling Point Codes (ISPC) for SS7. The ISPC application must include information demonstrating compliance with the standards set forth in ITU–T Recommendation Q.708. Currently, there is no fee for an ISPC application or associated request, such as an amendment or transfers.[170] In the *NPRM,* the Commission proposed cost-based fees for these applications at $785, Transfers of Control $675, Modifications $675, and Waivers $335. We received no objections on these proposals. We adopt the fees as proposed in the *NPRM* and discussed in the paragraphs above and as reflected in the schedule of fees in the final rules.

142. *Earth Stations.* In the *NPRM,* the Commission proposed cost-based fees for earth station applications and the elimination and consolidation of some fees. We consolidate the filing fee categories for fixed or temporary fixed transmit/receive earth station applications, adopt a fee for pro forma assignments or transfers of control applications for earth stations, including receive-only stations, replace the filing fee category for Very Small Aperture Terminal (VSAT) systems with blanket-licensed earth stations, adopt the proposed fee for amendments and modifications, adopt a modification of the proposed fees for assignments and transfers of control on a per call sign basis, and adopt a cost-based application fee for processing and reviewing requests for U.S. market access from non-U.S. licensed space stations.

143. *Fixed satellite service.* We adopt our proposal to eliminate the Fixed Satellite transmit/receive Earth Stations (2 meters or less operating in the 4/6 GHz band) category and replace it with the fee categories for Fixed or Temporary

[166] The Media Bureau processes petitions for declaratory ruling seeking approval to exceed the benchmarks set out in section 310(b) for broadcast licenses.

[167] The State Department would then submit an application on behalf of the applicant to the ITU.

[168] *International Communications Policies Governing Designation of Recognized Private Operating Agencies, Grants of IRUs in International Facilities and Assignment of Data Network Identification Codes,* CC Docket No. 83–1230, Report and Order, 104 FCC 2d 208, 262–7, paras. 70–77 (1986), *recon. granted in part,* 2 FCC Rcd 7375, 7378–80, paras. 26–34 (1987). The International Telegraph and Telephone Consultative Committee (CCITT), now known as ITU–T, developed Recommendation X.121. *See* X.121: International numbering plan for public data networks, *https://www.itu.int/rec/T-REC-X.121/en* (visited Aug. 14, 2019).

[169] Standardization (ITU–T), Definition, *https://www.itu.int/net/ITU-R/asp/terminology-definition.asp?lang=en&rlink={EAA8C660-C702-4B47-A23E-20812661AC3A}*; Q.708: Assignment procedures for international signaling point codes, *https://www.itu.int/rec/T-REC-Q.708/en* (last visited Dec. 17, 2020) (ITU–T Rec. Q.708).

[170] According to ITU–T Rec. Q.708, an ISPC may not be sold, licensed or traded by signaling point operators. Transfers of ISPCs are permitted in the case of a merger, acquisition, divestiture, or formation of a joint venture. *Id.* at para. 7.10. An ISPC ''Transfer of Control'' application is intended to address ISPC transfers occurring as a result of a merger, acquisition, divestiture, or formation of a joint venture.

Fixed Transmit or Transmit/Receive Earth Stations. Earth stations transmitting, or transmitting and receiving signals, either at a fixed location or temporarily at a fixed location,[171] include entities that operate earth stations to provide fixed-satellite service (FSS)[172] as well as other services.[173] The Commission proposed to eliminate the Fixed Satellite Transmit/Receive Earth Stations (2 meters or less operating in the 4/6 GHz band) category and replace it with the fee categories for Fixed or Temporary Fixed Transmit or Transmit/Receive Earth Stations because there is no substantive difference in the review process for fixed or temporary fixed earth station applications in the 4/6 GHz band compared with such applications in other frequency bands. Consolidating the filing fee categories for fixed or temporary fixed transmit/receive earth station applications will streamline the fee filing process by eliminating potential mis-categorization and unnecessary sub-categories. We received no objections to this proposal, and we conclude that the fees proposed in the *NPRM* are reasonable and cost-based. Accordingly, we adopt the proposal to eliminate the Fixed Satellite transmit/receive Earth Stations (2 meters or less operating in the 4/6 GHz band) category and replace it with the fee categories for Fixed or Temporary Fixed Transmit or Transmit/Receive Earth Stations.

144. *Receive-only earth stations.* We adopt our proposed fee for the pro forma assignments or transfers of control applications, including receive-only earth stations. A separate Commission authorization is not generally required to operate a receive-only FSS earth station associated with a space station (either licensed or granted market access to operate in the United States).[174] A party may seek to register a receive-only FSS earth station with the Commission. This does not constitute a license, but rather is a method to record the existence of the earth station so that it may be taken into account for regulatory purposes, such as for coordination with other services to avoid harmful radiofrequency interference. CTIA contends that the Commission should not impose fees on pro forma filings involving receive-only earth stations and notes that in 2015, the Commission eliminated application processing fees for the pro forma assignment or transfer of control of receive-only earth stations.[175] CTIA argues that the Commission previously found that receive-only registrations are neither construction permits nor station licenses subject to section 310(d) of the Communications Act, and thus the pro forma assignment or transfer of control of such registrations does not require a public interest finding.[176] We disagree that the absence of a public interest finding (with respect to section 310(d)) means that there are no costs associated with processing pro forma assignments and transfers of control of receive-only earth stations. Although the Commission has specified that its review of pro forma transfer applications ''is limited to determining that they are, in fact, pro forma in nature,'' the Commission did not eliminate review of pro forma transfer applications altogether. In fact, the review does require staff resources to ensure that the parties have complied with our rules and the application in fact falls in the pro-forma category, and to determine the accuracy of the information provided in the application and ownership of the licenses. Based on our cost-based analysis, we adopt our proposed fee for the pro forma assignments or transfers of control applications for receive-only earth stations. We assess this pro forma application fee on a per transaction basis because the costs involved with processing these applications typically are incurred per application due to the pro forma nature of these applications. The $400 fee we adopt covers the average cost to process a pro forma application.

145. *Blanket earth stations.* We adopt our proposed fee for blanket-licensed mobile earth stations. Blanket earth station facilities are earth station systems authorized pursuant to blanket licensing procedures in part 25 of the Commission's rules.[177] Applications for licenses for Earth Stations in Motion (ESIM)[178] and certain SDARS terrestrial repeaters are included in this fee category.[179] This filing fee category replaces the filing fee category for VSAT systems, since the definition of a blanket earth station license includes the category of services included in VSAT systems. The Commission eliminated VSAT-specific rules in 2015.[180] We proposed to eliminate the filing fees for VSAT but use the previous VSAT fees as the baseline for evaluating the change in filing fees for blanket-licensed earth stations.

146. Commenters question the proposed higher fee for blanket-licensed mobile earth stations compared to proposed fees for other blanket-licensed earth stations. EchoStar and SIA oppose the proposed $815 application fee for blanket-licensed mobile earth stations, and argue that we should adopt a $360 fee for all blanket-licensed earth stations, including mobile earth stations.[181] We disagree and adopt our proposed fees. A higher fee for blanket-licensed mobile earth stations is warranted because the Commission's costs are higher to review these types of applications. Specifically, these applications are generally more complex, given the mobile nature of the services to be provided, and thus require significant engineering review and legal analysis to process. Consequently, higher cost-based fees are warranted.

147. *Amendments and modifications.* We adopt our proposed fee for amendments and modifications.[182]

[171] Valid authorization must be obtained prior to the use and operation of transmitting earth station facilities within the United States. 47 CFR 25.102(a). A fixed earth station is ''[a]n earth station intended to be used at a fixed position. The position may be a specified fixed point or any fixed point within a specified area.'' *Id.* Section 25.103. A temporary fixed earth station is one that is to remain at a single location for fewer than six months. *See id.* Section 25.277(a).

[172] FSS is ''[a] radiocommunication service between earth stations at given positions, when one or more satellites are used; the given position may be a specified fixed point or any fixed point within specified areas; in some cases this service includes satellite-to-satellite links, which may also be operated in the inter-satellite service; the [FSS] may also include feeder links of other space radiocommunication services.'' 47 CFR 25.103.

[173] For example, this fee category would apply to Satellite Digital Audio Radio Service (SDARS) terrestrial repeaters that are licensed on a site-by-site basis. *See* 47 CFR 25.144(e)(9).

[174] A license is required for a receive-only earth station if it is receiving signals from a non-US licensed space station that does not have a valid grant of US-market access. *See* 47 CFR 25.115(b)(1) (allowing registration, instead of licensing, for receive-only earth stations in the FSS that operate with U.S.-licensed space stations, or with non-U.S. licensed space stations that have been duly approved for U.S. market access). In this instance, the new fee that we adopt for U.S. market access from non-U.S. licensed space stations through earth station applications would apply.

[175] CTIA Comments at 12.

[176] *Id.* at 12–13.

[177] A blanket license is ''a license for: (1) [m]ultiple earth stations in the FSS or MSS, or for SDARS terrestrial repeaters, that may be operated anywhere within a geographic area specified in the license; or (2) [m]ultiple space stations in non-geostationary-orbit.'' 47 CFR 25.103.

[178] ESIM is a term that collectively designates Earth Stations on Vessels (ESV), Vehicle-Mounted Earth Stations (VMES), and Earth Station Aboard Aircraft (ESAA) as defined in Commission rules. 47 CFR 25.103.

[179] *See, e.g.,* 47 CFR 25.144(e)(2) (stating eligibility requirements for blanket licensing of SDARS terrestrial repeaters).

[180] *See Second Report and* Order, 30 FCC Rcd at 14778, para. 191 (deleting the VSAT-specific rules contained in former § 25.134 because they were duplicative of blanket licensing provisions contained in other rule sections).

[181] EchoStar Comments at 4; SIA Comments at 8.

[182] 85 FR 65586 (October 15, 2020) at para. 169. (proposing to create a separate fee category for

According to some commenters, the proposed fees for earth station amendments and modifications are excessive compared to those for initial earth station applications, a $430 fee for single-site earth station amendments, and a $545 fee for earth station modifications compared to the proposed fee for initial single-site transmit earth stations of $360, which should require greater resources than the amendment or modification.[183] We disagree. Our experience is that the costs involved in an amendment and modification are higher than the costs in processing an initial application. In order to process an application amendment or license modification, staff must first manually transfer the proposed amendment or modification into the underlying application or license in IBFS. Then, Commission engineering staff must re-familiarize themselves with the initial application or underlying license, and then review the amended application or modified license to determine if the revised technical specifications, such as power levels, remain within the rule requirements. This process has taken our staff, on average, more time and specific expertise than the time and specific expertise required to process the initial applications. For that reason, we adopt our proposed fees for amendments and modifications.

148. EchoStar further argues that the proposed fees for space and earth station amendments fail to distinguish between major and minor amendments permitted under § 25.116 of the Commission's rules and that the proposed fees for space and earth station modifications fail to distinguish between modifications permitted under § 25.117 and modifications not requiring prior authorization under § 25.118.[184] EchoStar contends that the Commission should clarify that the proposed fees for space and earth station amendments and modifications are limited to major amendments and modifications requiring prior authorization.[185] EchoStar proposes that the Commission adopt reduced fees for minor amendments and modifications not requiring prior authorization because such minor amendments and modifications are typically processed with minimal staff review.[186] We decline to adopt different fees based on whether an amendment is determined to be minor or major, or whether a modification requires prior authorization or not. Staff resources are expended in all such cases in the initial review process to determine whether an amendment application is properly classified as minor or major, or whether a modification application is properly classified as not requiring prior authorization. Moreover, creating different fee categories based on such determinations would add complexity and administrative burden, potentially slowing down the processing of these applications. We therefore adopt the fees as proposed.

149. *Multiple sites.* We adopt our proposed fee for earth station applications seeking to license multiple sites. We proposed to adopt separate cost-based filing fees for applications involving a single site[187] and applications involving multiple sites.[188] SIA argues that the proposed fee for earth station applications seeking to license multiple sites, in the case of ''multiple stations at a single geographic location [that are] operating under a single call sign,'' $6,515, is more than 18 times the fee for an initial application for a single site ($360), an initial VSAT application ($360), or a blanket license application ($360).[189] SIA observes that the fee for initial applications for multiple sites would encourage additional, unnecessary filings that would increase the administrative burden on the Commission, because for sites with multiple antennas eligible to be licensed under one call sign, in almost all cases it would be more cost-efficient for an earth station applicant to either apply for separate licenses for each antenna, or seek a license for a single site and then modify that license to add antennas.[190] Accordingly, SIA argues, the Commission should either combine the single and multiple site categories into one category that retains the proposed single-site fee, or reduce the proposed fee for initial earth station applications for multiple sites to be more in line with the fees proposed for other types of initial earth station applications.[191] We disagree with SIA's proposal. Multiple sites applications require additional costs to process, and may involve hundreds of different sites that need to be evaluated by Commission staff. In adopting cost-based fees, we must take these additional costs into account in calculating the appropriate fee. We are also developing these fees based on average costs. Since a multiple site application may include 20 or 200 sites, as well as different transmit/receive stations for different antennas, frequencies, and services under the same call sign, we must adopt a fee that covers the Commission's average costs. We understand that if an application has fewer than a dozen or so sites, assuming all other things are equal, the applicant may prefer the option of applying individually for separate licenses. Availability of such an option in itself neither renders our cost-based proposed fees invalid nor affects the Commission's calculation of average cost with respect to applications involving multiple sites. Accordingly, we adopt our proposed $6,515 fee for such applications.

150. *Assignment and transfer of control.* We adopt our proposed fee for assignments and transfer of control with a modification to reduce the fee charged for each additional call sign in transactions involving multiple call sign. Some commenters suggest that the application fee for assignments and transfer of control should be based on per the transaction, rather than per the number of call signs that each application involves, which is the case under fee schedules prior to the passage of the RAY BAUM'S Act.[192] EchoStar argues that the Commission should not adopt a per-call sign application fee for assignment and transfer of control of space and earth station licenses because that would be inconsistent with the goal of aligning application fees with costs.[193] SIA contends that the processing of an application to assign or transfer multiple earth or space stations requires virtually the same staff resources as processing an application for a single earth or space station.[194] SIA explains that the current earth station fee structure reflects this difference, with the first call sign on an assignment or transfer of control application being charged at one rate and all additional call signs being charged at a much lower

amendments and modifications on a per call sign basis).

[183] EchoStar Comments at 4; SIA Comments at 6–7.

[184] EchoStar Comments at 3.

[185] *Id.*

[186] *Id.* at 3–4.

[187] In the *NPRM* in footnote 135, the Commission stated that ''[a]n example of a single site application would be one for authority to operate a single transmit/receive gateway station operating under a single call sign in the FSS.''

[188] In the *NPRM* in footnote 135, the Commission stated that ''[a]n example of a multiple site application would be multiple stations at a single geographic location operating under a single call sign in the FSS.'' We clarify that this was just one example not a definition of applications seeking to license multiple sites. Another example of multiple site would be multiple stations at multiple geographic locations (each with a different specified latitude and longitude) operating under a single call sign in the FSS.

[189] SIA Comments at 5.

[190] *Id.* at 6.

[191] *Id.*

[192] *Id.* at 4; EchoStar Comments at 5.

[193] EchoStar Comments at 5.

[194] SIA Comments at 4.

rate.[195] A non-pro forma application can be complex and include a large number of various licenses and services. Our experience shows that a non-pro forma application processing cost has a direct relationship with the number of call signs that might be included in a particular non-pro forma transaction. Because the review of a non-pro forma/substantive transaction for assignment or transfer of control requires differing staff resources based on the number of call signs on an assignment or transfer of control application, we adopt our proposed fees on a per call sign basis but modify them slightly. To better reflect our average cost of processing these non-pro forma applications, the first call sign on an assignment or transfer of control application will be charged at one rate ($745) and all additional call signs will be charged at lower rate ($400) consistent with our currently established fee structure. This change would reflect the additional average incremental costs incurred by our staff, including a first-line analyst to process the non-pro forma assignment and transfer of control of applications in IBFS beyond the initial call sign.

151. *U.S. market access from non-U.S. licensed space stations through earth station application.* We adopt our proposed fee for a request for authority to communicate with a non-U.S. licensed space station as part of an earth station application. Applicants and licensees may request authority to communicate with a non-U.S. licensed space station as part of an earth station application. We adopt a cost-based application fee for processing and reviewing requests for U.S. market access from non-U.S. licensed space stations. We adopt our proposal that any earth station application that includes a request to communicate with a non-U.S. licensed space station that does not have a valid grant of U.S. market access must also pay the filing fees for space station petitions for declaratory ruling for U.S. market access. An earth station application including a request for U.S. market access involves the same process and review as a space station petition for market access. In addition, unless the same fees are assessed for earth station applications involving requests for U.S. market access, parties may seek to arbitrage the system by shifting all market access requests to earth station filings in order to avoid any future fees adopted for filings of requests for market access by space stations.

152. We adopt the following cost-based fees for earth stations.

| Application | New fee |
|---|---|
| **Fixed or Temporary Fixed Transmit or Transmit/Receive Earth Stations, per Call Sign** | |
| Initial application, single site | $360. |
| Initial application, multiple sites | $6,515. |
| **Receive Only Earth Stations License or Registration, per Call Sign or Registration** | |
| Initial application or registration, single site, per site | $175. |
| Initial application or registration, multiple sites, per system | $465. |
| **Blanket Earth Stations, per Call Sign** | |
| Initial Application for Blanket Authorization | $360. |
| **Mobile Earth Stations, per Call Sign** | |
| Initial Application for Blanket Authorization, per system | $815. |
| **Amendments to Earth Station Applications or Registrations, per Call Sign** | |
| Single Site | $430. |
| Multiple Sites | $630. |
| **Other Earth Station Applications** | |
| Modification of Earth Station Licenses or Registrations, per Call Sign | $545. |
| Assignment or Transfer of Control of Earth Station Licenses or Registrations | $745 (first call sign; $400 (for each additional). |
| Pro Forma Assignment or Transfer of Control of Earth Station Licenses or Registrations, per transaction. | $400. |
| **Renewals of Earth Station Licenses, per Call Sign** | |
| Single Site | $115. |
| Multiple Sites | $145. |
| Requests for U.S. Market for Non-U.S. Licensed Space Stations, per request | See the fee categories for Space Stations. |

153. *Space Stations.* Valid authorization must be obtained from the Commission prior to the use and operation of a space station.[196] With limited exceptions, approval for orbital deployment and a station license (*i.e.,* operating authority) must be applied for and granted before a space station may be deployed and operated in orbit.[197] In the *NPRM,* the Commission sought comment on proposals for cost-based fees and eliminating some fees. We remove the application fee for extension of launch authority; adopt fees for applications for authority to construct, deploy, and operate; adopt the proposed new fee category for authority to operate per system, a space station that is

[195] SIA Comments at 5.

[196] 47 CFR 25.102(a) (stating that ''[n]o person shall use or operate apparatus for the transmission of energy or communications or signals by space or earth stations except under, and in accordance with, an appropriate authorization granted by the Federal Communications Commission.'')

[197] *Id.* Section 25.113(g).

already in orbit, as a U.S. licensed space station; and adopt a new application fee for petitions to access the U.S. market by foreign-licensed space stations. We also adopt application fees for small satellite NGSO systems; adopt fees for amendments, modifications, and substantive and pro forma assignments and transfers of control for both GSOs and NGSOs; and adopt fees for STA applications for GSOs and NGSOs. We are adopting the proposals in the *NPRM,* with some modifications.

154. *Extension of launch authority.* We adopt our proposals to remove the application fee for extension of launch authority for both GSOs and NGSOs. With limited exceptions, prior approval must be granted for any modification of a space station authorization,[198] including an extension of launch authority. Any request to change to the terms or conditions of an authorization must be filed through a request for modification of the authorization. We see no reason to preserve a separate application fee for requests to extend authority for launch of geostationary satellites, and elimination of this separate fee category will help to streamline and simplify our fee structures.

155. *Application for authority to operate per system, a space station that is already in orbit.* We adopt our proposed new fee category: Application for authority to operate per system, a space station that is already in orbit as a U.S. licensed space station. We find that the costs involved in this process are identical to those for authority to construct, deploy, and operate GSOs and NGSOs, per system, since the information required to be reviewed by Commission staff and the direct costs incurred are the same in both cases.

156. SIA asks that the Commission clarify that the application fee for NGSO systems (not small satellite) is $15,050 regardless of whether authority is sought to ''construct, deploy, and operate'' an NGSO system or to ''operate'' an NGSO system that is already in orbit—the fee is listed as $15,050 for both application types.[199] We clarify that these fees are based on the same costs and are intended to be the same.

157. *U.S. market access petitions for foreign-licensed space stations.* We adopt our proposed fee for U.S. market access for foreign licensed space stations with the modification that we add an NGSO small satellite fee in the petition for declaratory ruling category, matching the fee that is already listed for applications to construct, deploy, and operate U.S.-licensed NGSO small satellites. The Commission assesses application fees involving space stations (both in geostationary and in non-geostationary orbits) licensed, or to be licensed, by the Commission, but does not currently have an application fee for petitions for foreign-licensed space stations to access the U.S. market. These petitions involve the submission and review of essentially the same information as provided in applications (*i.e.* Form 312, Schedule S, and Technical and Legal Narratives) involving U.S.-licensed space stations.[200] The costs up through the first-level of supervision are identical for both applications for U.S. licenses and petitions for declaratory ruling to access the U.S. market. In both cases, the same documentation is required to be prepared and reviewed. In the *NPRM,* we proposed new cost-based fees for foreign-licensed space stations. We explained that, pursuant to the requirement of the RAY BAUM'S Act, we must recover the costs of processing filings.[201] As a result, we are required to adopt a new application fee for petitions to access the U.S. market by foreign-licensed space stations.

158. One commenter, Kepler, contends that the application fee for market access for foreign-licensed space stations is in addition to the other costs, *e.g.,* annual regulatory fees and milestone bonds, and adds to an already burdensome and prohibitively costly regulatory framework without providing any clear benefit to foreign-licensed operators.[202] Kepler explains that the foreign operator application fee would discourage competition among satellite operators within the United States.[203] Kepler contends that a reduction in application fees for U.S. operators should not be recouped by shifting the financial burden onto foreign operators—by doing so, the U.S. risks igniting retaliatory fees being imposed upon foreign-licensed systems in other administrations.[204] In reply comments, EchoStar recalls the Commission's adoption of regulatory fees for non-U.S. licensed satellites in the *Assessment and Collection of Regulatory Fees for Fiscal Year 2020 Assessment and Collection of Regulatory Fees for Fiscal Year 2019 Report and Order* because the Commission expends effort and resources in regulating non-U.S. licensed satellites that, similar to U.S. licensed satellites, benefit from the Commission's oversight and regulation.[205] EchoStar explains that in that proceeding the Commission found that the ''inequity of applying fees only to U.S. licensed operators when both U.S. operators and foreign operators applying for market access benefit from the work of the Commission outweighs unsubstantiated claims that the fees will cause harm to the competitiveness of the United States.'' [206] EchoStar also adds that Kepler's comments ''do[ ] not provide any new evidence to justify a different outcome in this proceeding than the *Regulatory Fee* proceeding.'' [207]

159. We recognize that foreign-licensed space station operators, like U.S. operators, will be paying this fee in addition to other expenses that the Commission has imposed. However, the RAY BAUM'S Act requires us to assess application fees based on cost. As the Commission explained in the *NPRM,* ''[w]e expect that the costs involved in this process [of reviewing a petition for market access] are identical to those for authority to construct, deploy, and operate a GSO, since the information required to be reviewed is the same in both cases.'' [208] To fully comply with the RAY BAUM'S Act, we must require a fee for foreign-licensed space station operators seeking market access just as we do for domestic GSO applications. And because the staff costs and Commission resources involved in the market access petitions are identical to the costs for a U.S. licensed space station, we must adopt the same fee. We are not shifting costs, as Kepler asserts, but following the statute in determining cost-based fees for all applications as appropriate.

160. SIA notes that the proposed application fee schedule does not identify a small satellite fee in the category for U.S. market access for foreign-licensed space stations and suggests adding an NGSO small satellite fee of $2,175 in the petition for declaratory ruling category, matching the fee that is already listed for applications to construct, deploy, and operate U.S.-licensed NGSO small satellites.[209] We agree and correct this

[198] *Id.* Section 25.117(a).

[199] SIA Comments at 9–10 (asserting inconsistent description of these fees in the text of the *NPRM*).

[200] 47 CFR 25.137(b) (requiring an entity seeking U.S. market access by a non-U.S. licensed space station to provide ''an exhibit providing legal and technical information for the non-U.S. licensed space station of the kind that § 25.114 would require in a license application for that space-station, including but not limited to, information required to complete Schedule S.'')

[201] 47 U.S.C. 158(a).

[202] Kepler Comments at 1.

[203] *Id.* at 1–2.

[204] *Id.* at 2.

[205] EchoStar Reply at 2–3.

[206] *Id.*

[207] *Id.* at 3.

[208] 85 FR 65587 (October 15, 2020) at para. 177.

[209] SIA Comments at 9.

oversight by adding a fee for NGSO small satellites petitions for U.S. market access, calculated as the same $2,175 fee as for ''Application for Authority to Construct, Deploy, and Operate.'' [210] This fee is clearly a logical outgrowth of our proposal in the *NPRM* to adopt cost-based fees for all non-U.S. licensed NGSO satellites, similar to the fees imposed on the U.S. licensed satellites, and the satellite industry representatives raised it in the record so other interested parties should have had adequate notice.[211] Since the cost of processing a request for market access for an NGSO small satellite is the same as processing a request for an application to construct, deploy, and operate a U.S.-licensed NGSO small satellite, we adopt this $2,175 fee.

161. *Two-step filing for GSO space stations.* We adopt our proposed fee for two-step filings for GSO space stations. EchoStar contends that the Commission should clarify whether its proposed application fee for GSO space station licenses applies to optional two-step filings permitted under § 25.110(b)(3).[212] EchoStar suggests that the Commission should adopt a minimal cost-based application fee amount for streamlined, first-step application filings under the Commission's optional two-step process and clarify that the proposed GSO satellite application fee applies to full, second-step application filings under the two-step process.[213] We clarify that these fees are calculated for one-step filings, which constitute nearly all of the GSO applications received to date. Because we have very little experience with two-step applications and their applicable costs to process, and because the administrative burden of implementing a separate fee for so few applications would outweigh the benefits, we have not proposed a separate fee for these types of applications. We therefore adopt our proposal for a single fee for all GSO applications, regardless whether they involve the one-step or two-step process.

162. *Small satellites.* We adopt our proposed fee for small satellite NGSO systems.[214] Small satellite NGSO systems typically are associated with small size, short duration missions, and relatively low cost. In the *Small Satellite Report and Order,*[215] the Commission adopted rules governing licensing of these small satellites and adopted an interim application fee for small satellites of $30,000. After review of anticipated costs involved with the processing of all space station filing fees, the Commission proposed a new cost-based application fees for satellites that are able to be licensed under the small satellite rules, based on the estimated costs involved in processing the applications. We therefore adopt our proposed cost-based application fee of $2,175.

163. *Amendments.* We adopt our proposed fee for amendments. In the *NPRM,* the Commission proposed to create a separate fee category for amendments of all categories of space station filings on a per call sign basis. We conclude that the costs involved with amendments up through the first level of supervision are likely to be similar for both GSO and NGSO space stations, as well as for small satellite NGSO systems, since the information reviewed in all cases will be the same and the standard for acceptability for filing is also the same.[216] It will be more efficient to have a single fee category for all amendments to space station applications, rather than including a separate sub-category for amendments for each category of space station licenses. We thus adopt our cost-based proposed fee of $1,620 for all amendments of all categories of space station filings on a per call sign basis.

164. *Modifications.* We adopt our proposed fee for modifications. As a general matter, no modification of a station license that affects the parameters or terms and conditions of the station authorization can be made except upon application to and grant of such application by the Commission. In the *NPRM,* the Commission proposed a separate fee category for filings to modify all categories of space station license approvals on a per call sign basis. The Commission's costs involved with applications for modification through accepted-for-filing public notice and up through first-level supervision are similar for both geostationary and non-geostationary space stations, as well as for small satellites, since the information reviewed in all cases will be the same and the standard for acceptability for filing is also the same.[217] We adopt our proposed cost-based fee of $2,495 for modifications of all categories of space station licenses on a per call sign basis.

165. *Assignment and transfer of control.* We adopt our proposed fee for assignments and transfers of control with a modification to reduce the fee charged for each additional call sign in transactions involving multiple call signs. An application is required to be filed and granted before a space station license can be transferred, assigned, or disposed of, voluntarily or involuntarily, directly or indirectly, or by transfer of control to any corporation or any other entity.[218] The Commission proposed to create a separate fee category for filings to assign or transfer control of all categories of space station licenses on a per call sign basis. The costs involved with applications for assignment or transfer of control are likely to be similar for both geostationary and non-geostationary space stations, as well as for small satellites, since the information reviewed in all cases will be the same and the standard for acceptability for filing is also the same. In the *NPRM,* we proposed new cost-based fees.

166. As we discussed regarding earth stations, commenters contend that the fee should not be based on the number of call signs, but instead should be per transaction, because the substantive review of any assignment or transfer of control should not vary with the number of authorizations covered by the application.[219] We disagree. The substantive review and processing of a transaction for assignment or transfer of control requires differing staff resources, based on the number of call signs in an assignment or transfer of control application. To better reflect our average cost of processing these applications, we adopt the cost-based fee of $745 proposed in the *NPRM,* but the fee for additional call signs will be $400. This change would reflect the additional

[210] *See NPRM* at para. 186.

[211] *See* SIA Comments at 9.

[212] EchoStar Comments at 6.

[213] *Id.* at 7.

[214] The same rationale for our adoption of filing fees for small satellites also applies to the filing fees applicable for small spacecraft. Applications for small satellites and small spacecraft entail the same direct costs, the only difference being that small spacecraft operate beyond Earth's orbit, whereas small satellites operate in Earth orbit. *See* 47 CFR 25.103. We adjust the fee tables to correct the prior inadvertent omission of small spacecraft in the fees applicable to small satellites. *See Streamlining Licensing Procedures for Small Satellites,* IB Docket 18–86, Report and Order, 34 FCC Rcd 13077, 13101, para. 65 (2019) (permitting small spacecraft to file under the streamlined process for small satellites).

[215] *Streamlining Licensing Procedures for Small Satellites,* IB Docket No. 18–86, Report and Order, 34 FCC Rcd 13077 (2019) (*Small Satellite Report and Order*).

[216] 47 CFR 25.116(e) (stating that ''[a]mendments to space station applications must be filed on Form 312 and Schedule S'' without distinction as to whether application involves geostationary or non-geostationary satellites).

[217] *Id.* Section 25.117(d)(1) (stating that ''applications for modifications of space station authorizations shall be filed in accordance with § 25.114, but only those items of information listed in § 25.114 that change need to be submitted, provided the applicant certifies that the remaining information has not changed'' without regard to whether the space station authorization is for a geostationary or non-geostationary satellite).

[218] *Id.* Section 25.119(a).

[219] SIA Comments at 4; EchoStar Comments at 5.

incremental costs incurred by first-line analysts to process assignment and transfer of control of applications (beyond the initial call sign) in IBFS, and is consistent with the approach adopted with respect to earth station fees.

167. *Pro forma assignments and transfers of control.* We adopt our proposed fee for the pro forma assignments or transfers of control applications. The Commission sought comment on whether a separate fee category should be established for assignments and transfers that are pro forma. In these instances, public notice and prior Commission approval are not needed. In the *NPRM,* the Commission proposed new cost-based fees. EchoStar argues that the Commission should reduce its proposed application fees for pro forma assignment and transfer of control of space and earth station licenses because pro forma transfers of control and assignments of non-common carrier licenses are presumptively granted the day after filing, and the same transactions involving common carrier licenses do not even require Commission consent.[220] We agree that the fee should be lower than substantive assignments and transfers of control, and we had proposed $400. This proposed fee is based on the costs associated with the pro forma assignments and transfers of control, which include determining that the rules are followed and checking ownership. We cannot eliminate the fee merely because the costs are lower than those for substantive assignments and transfers of control. Based on our experience and evaluation of the cost of processing such an application, we adopt the cost-based fee we proposed of $400 for pro forma assignments and transfers of control. We apply this pro forma fee on a per transaction basis because, as discussed in the case of earth station application, the costs involved with processing these applications typically are incurred by transaction (per application basis) rather than by call sign.

168. *Special temporary authority (STA).* We adopt our proposal to create a separate fee category for an STA for all categories of space station license applications on a per call sign basis and the proposed fee for such application. In circumstances requiring immediate or temporary use of facilities, request may be made for an STA to install and/or operate new or modified equipment. The Commission may grant a temporary authorization only upon a finding that there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of these temporary operations would seriously prejudice the public interest. The Commission may grant a temporary authorization for a period not to exceed 180 days, with additional periods not exceeding 180 days, if the Commission has placed the STA request on public notice. The Commission may grant an STA without placing the request on public notice first, if the request is for a period not to exceed 30 days, or the period is not to exceed 60 days and the applicant plans to file a request for regular authority for the service. In the *NPRM,* we proposed new cost-based fees. We adopt our proposal to create a separate fee category for an STA for all categories of space station license applications on a per call sign basis.[221] We adopt the proposed cost-based fee of $1,435. A summary of the adopted fees discussed above is listed below.

| Filing category | New fee |
|---|---|
| **Space Stations, Geostationary Orbit** | |
| Application for Authority to Construct, Deploy, and Operate, per satellite | $3,555. |
| Application for Authority to Operate, per satellite | 3,555. |
| **Space Stations, Non-Geostationary Orbit** | |
| Application for Authority to Construct, Deploy, and Operate, per system of technically identical satellites, per Call Sign. | $15,050. |
| Application for Authority to Operate, per system of technically identical satellites, per Call Sign | 15,050. |
| **Space Stations, Petition for Declaratory Ruling for a Foreign Space Station to Access the United States Market** | |
| GSO | $3,555. |
| NGSO | 15,050. |
| Small satellite NGSO | 2,175. |
| **Space Stations, Small Satellites, or Small Spacecraft** | |
| Application to Construct, Deploy, and Operate, per Call Sign | $2,175. |
| **Space Stations, Other Applications** | |
| Space Stations, Amendments, per Call Sign | $1,620. |
| Space Stations, Modifications, per Call Sign | 2,495. |
| Space Stations, Assignment or Transfer of Control | $745 (first call sign; $400 for each additional). |
| Space Stations, Pro Forma Assignment or Transfer of Control, per transaction | 400. |
| Space Stations, Special Temporary Authority, per Call Sign | 1,435. |

169. *Direct Broadcast Satellites.* We adopt our proposal to assess filing fees for DBS satellites under the proposed fees for geostationary space stations. In the *NPRM,* the Commission proposed removing this fee category and using

[220] EchoStar Comments at 6.

[221] Because grants of U.S. market access are not authorizations and non-U.S. licensed space stations are not licensed by the FCC, an STA is not available for space stations operations involved with access to the U.S. markets. Accordingly, no filing fees are being proposed for STAs involving grants of market access. Earth station licensees, however, have and may continue to request an STA to communicate with non-U.S, licensed space stations, and filing fees for such requests are covered by the proposed filing fee for Earth Stations, Special Temporary Authority, above.

application fees and categories for geostationary space stations instead. In September 2019, the Commission revised and updated the rules governing DBS processing procedures to align them with the streamlined processing procedures for GSO FSS satellites. The Commission found that there is little difference technically between GSO FSS satellite systems and DBS systems in geostationary orbit, and that DBS license applications could be processed in the same manner as GSO FSS satellites under a first-come, first-serve basis.[222] Given the technical and regulatory similarities between GSO FSS satellites and DBS satellites, there is no need to maintain a separate filing fee for DBS satellites and we adopt our proposal to assess filing fees for DBS satellites under the proposed fees for geostationary space stations, which also apply to GSO FSS satellite applications.

170. *Unified Space and Earth Station Licenses.* The Commission created a set of temporary rules regarding fees for unified space and earth station licenses in the *Further Streamlining Part 25 Rules Governing Satellite Services Report and Order.*[223] In the *Report and Order,* we ''assess[ed] a fee for unified license applications that is equal to the combined fees of the relevant space station license application and earth station blanket-license application.'' [224] However, we qualified those fees as a ''simple, clear solution until the comprehensive Commission application fee rulemaking is completed.'' [225] We further qualified those as ''interim fee decisions . . . [that] will be considered in the larger application fee rulemaking, and may change significantly based on the analyses conducted there.'' [226] In the *Further Streamlining Part 25 Rules Governing Satellite Services* proceeding, we received public comments favoring our adoption of that fee. Intelsat supported a fee that ''reflect[ed] the dual earth station and space station elements of the unified license.'' [227] Viasat supported fees that were ''commensurate with the lower rates applicable to additional earth stations in an assignment or transfer of control application, or an additional site-based application.'' [228]

171. In this current proceeding, EchoStar contends that if we allow applications for unified space and earth station licenses, we should also adopt a cost-based fee for these filings, no greater than the sum of the filing fees for the component space and earth station licenses, and the fee should be reduced to reflect any material reductions in the information required for Commission review and to account for other administrative efficiencies offered by unified license filings.[229] SIA also contends that a unified licensing fee structure for space and earth stations should be cost-based.[230]

172. We adopt a cost-based approach for unified space and earth station license fees. At this time, we adopt a fee that is equal to the combined, cost-based fees of the relevant space station license application and earth station blanket license as adjusted herein, consistent with the approach that we adopted in our *Further Streamlining Part 25 Rules Governing Satellite Services Report and Order.* In the future, once Commission staff has more experience with processing new unified license applications and the costs incurred to do so, we may reevaluate our methodology and the fee amount as appropriate.

173. *International Broadcast Stations.* An International Broadcast Station (IBS) uses broadcast frequencies between 5,950 kHz and 26,100 kHz to provide its broadcast service which is intended to be received in foreign countries.[231] This service also is known as High Frequency Broadcasting (HF) or Shortwave Broadcasting. Unlike other broadcasting services, HF broadcasters are authorized frequencies on a seasonal basis. Currently, two seasons exist: A Summer season and a Winter season. The adjustment of frequencies between seasons results mainly from changes in propagation conditions, altered programming needs, and objectionable interference situations. In the *NPRM,* we proposed new cost-based fees. We received no comment on these proposals and adopt the following cost-based fees for IBS services listed below.

| Application | New fee |
|---|---|
| IBS New Construction Permit | $4,010 |
| IBS Construction Permit Modification | 4,010 |
| IBS New License | 905 |
| IBS License Renewal | 230 |
| IBS Frequency Assignment | 80 |
| IBS Transfer of Control | 595 |
| IBS STA | 395 |

174. *Permit to Deliver Programs to Foreign Broadcast Stations.* We adopt the proposed cost-based permit to deliver programs to foreign broadcast stations fees in the *NPRM.* An application for 325(c) authorization for a new license, license renewal, license transfer of control, or an STA is received in electronic or hard copy format and reviewed for completeness. If the application is complete, then it will be placed on public notice for 30 days and reviewed. The application is reviewed by a staff engineer to ensure foreign station facilities are accurate and approved via treaty guidelines. Upon a positive review of the application by engineering and legal staff the application is uploaded into IBFS. The application is coordinated within the Commission for further analysis, enforcement violations, and possible ownership/applicant issues. If there are no problems, then the application will be granted, and the Public Notice of the grant will be released. In the *NPRM,* the Commission proposed new cost-based fees for these applications. We received no objections to these proposals.

175. We adopt the following cost-based fees for section 325(c) authorizations proposed in the *NPRM* and summarized below.

| Application | New fee |
|---|---|
| 325(c) New License | $360 |
| 325(c) License Modification | 185 |
| 325(c) License Renewal | 155 |
| 325(c) STA | 155 |
| 325(c) Transfer of Control | 260 |

176. *International Fixed Public Radio.* We eliminate this fee category from the application fee schedule as proposed in the *NPRM* because this service was removed from the Commission's rules in 2010.[232]

177. *Exemptions.* In the *NPRM,* the Commission explained that section 8(d)(2) of the RAY BAUM'S Act allows the Commission to eliminate an application fee when the Commission determines that the cost of collecting the

[222] *DBS Streamlining Report and Order,* 34 FCC Rcd at 9016–17, para. 8.

[223] *Further Streamlining Part 25 Rules Governing Satellite Services,* Report and Order, —FCC Rcd— (2020).

[224] *Id.* at 13, para. 34.

[225] *Id.*

[226] *Id.* at 12, para. 33.

[227] Intelsat License LLC Comments, FCC 20–159, IB Docket No. 18–314, at 6 (rec. Mar. 18, 2020).

[228] Viasat, Inc. Comments, FCC 20–159, IB Docket No. 18–314, at 6–7 (rec. Mar. 18, 2020).

[229] EchoStar Comments at 7.

[230] SIA Comments at 8.

[231] *See* 47 CFR 73.701(a) (defining IBS as ''[a] broadcasting station employing frequencies allocated to the broadcasting service between 5900 and 26100 kHz, the transmissions of which are intended to be received directly by the general public in foreign countries. (A station may be authorized more than one transmitter.) There are both Federal and non-Federal Government international broadcast stations; only the latter are licensed by the Commission . . . .''

[232] In 2010, the Commission eliminated Part 23 of its rules governing International Fixed Public Radiocommunication Services. *Elimination of Part 23 of the Commission's Rules,* IB Docket No. 05–216, Report and Order, 25 FCC Rcd 541 (2010).

fee exceeds the amount collected.[233] Specifically, section 8(d)(2) provides that ''[i]f in the judgment of the Commission, the cost of collecting an application fee established under this section would exceed the amount collected, the Commission may by rule eliminate such fee.'' [234] The Commission has no or nominal collection costs for delinquent application fees because we do not consider or grant applications for which application fees are owed unless the fee is paid at the time of filing.[235] Thus, we did not propose to create a rule based on section 8(d)(2) of the Communications Act. We did not receive comments on this issue. We conclude that our original analysis that a section 8(d)(2) rule is unnecessary with respect to applications fees remains correct. In the *NPRM,* we explained the history of the exemptions to our application fees and explained that the revised statutory text did not require any *additions* to § 1.1116 of our rules, which deals with exemptions.[236]

178. *Large and small application fees.* Section 9A(e) of the RAY BAUM'S Act requires the Commission to allow applicants to pay large application fees in installments and small application fees in advance, for a number of years not to exceed the applicable license term. We sought comment in the *NPRM* on how to define ''large'' and ''small'' fees and how and under what circumstances to implement the requirements of section 9A(e), but received no responses.[237] Without comment from interested parties we do not have a record from which to implement the requirements fairly and efficiently, without undue administrative burden or cost, as we aim to do.[238] Accordingly, we will defer consideration of how, and adoption of rules, to implement the section 9A(e) requirements until a later time.

179. *Administrative rule changes.* Moreover, we expect that as a result of the changes made here and those made previously to implement the RAY BAUM'S Act of 2018 with respect to regulatory fees, some of our Part 1, Subpart G, Schedule of Statutory Charges and Procedures for Payment, may require revision.[239] Accordingly, we direct the Office of Managing Director (OMD), in consultation with the Offices and Bureaus, to propose such revisions for our consideration.[240] In our *NPRM,* we proposed revisions to such rules, but on review, anticipate that it would be more efficient to adopt any changes to such rules only after we have addressed any internal changes necessary to fully implement the newly adopted schedule. Accordingly, we direct OMD to take such provisions into consideration when reviewing Subpart G.

180. *Notice to Congress.* The RAY BAUM's Act of 2018 amended Section 8 of the Communications Act and provided an effective date of October 1, 2018 for such changes.[241] Congress envisioned a transition between fees adopted before and after the effective date of the amendments to Section 8.[242] In particular, Congress provided that application fees in effect on the day before the effective date of the RAY BAUM's Act shall remain in effect until such time as the Commission adjusts or amends such fee.[243] With this Report and Order, we adopt the new fee schedule envisioned by Congress. Accordingly, we find the new schedule satisfies our obligation to establish a new application fee schedule under Section 8(a) of the Act. In consideration of Congress's direction in the RAY BAUM's Act, moreover, we conclude that our amended schedule must be submitted to Congress at least 90 days before it becomes effective pursuant to section 9A(b)(2) of the Communications Act.[244] Accordingly, we direct the Office of Managing Director (OMD) to provide such a notification to Congress upon release of the Report and Order.

181. *Rule effective date.* As the Commission implements the changes to our application fee schedule, we anticipate that OMD, along with the Bureaus and Offices, may be required to update some of our licensing databases, payment instruction guides and/or adjust administrative internal procedures before we may begin accepting the new fees for certain categories of application fee payors. Accordingly, we direct the Office of Managing Director, in consultation with the relevant Offices and Bureaus, to cause a notice to be published in the **Federal Register** announcing when rule change(s) will become effective, once the relevant databases, guides, and internal procedures have been updated.

182. *Motion for extension of time.* Richard Golden filed a motion for an extension of time to file comments in this proceeding, arguing in part that he required time to file a FOIA with the Commission.[245] We note that Mr. Golden filed comments and reply comments in this docket and to our knowledge Mr. Golden has not filed a FOIA request. The *NPRM* was released on August 26, 2020, and published in the **Federal Register** on October 15, 2020. The *NPRM* provided that comments were due 30 days from the date that the *NPRM* was published in the **Federal Register**. The Commission had limited time to consider comments, draft and deliberate on this Report and Order to meet the RAY BAUM'S Act requirement to establish application fees. In light of these facts, including that Mr. Golden did file comments and reply comments, the motion is denied.

[233] *NPRM* at para. 222; 47 U.S.C. 158(d)(2).

[234] 47 U.S.C. 158(d)(2).

[235] 85 FR 65591–65592 (October 15, 2020) at para. 211, (and also explaining that collection of fees after a waiver request is denied are too infrequent to be used as a basis upon which to propose section 8(d)(2) rule).

[236] 85 FR 65591 (October 15, 2020) at para. 209–210. In the *NPRM,* however, we did propose to eliminate § 1.1116(e)(4), which provided an exemption for EBS licenses. We have eliminated the EBS exemption. In the *NPRM,* we also explained that if additional exemptions are sought by commenters, they should provide relevant authority and/or legislative history that would support modifying the limited Congressional list of exemptions. We received various requests to extend the exemptions to include amateur licenses. We explained why amateur licenses do not qualify for any of the existing exemptions and we conclude here for the same reasons that we will not create an exemption for such licenses where none exists in the statute. We have received no other relevant comments on our proposed update to § 1.1116.

[237] 85 FR 65592 (October 15, 2020) at para. 214–216.

[238] 85 FR 65592 (October 15, 2020) at para. 214, (In discussing implementation of the large fee installment payment requirement, we noted our ''aim to adopt a rule . . . that can be fairly and efficiently administered, without undue administrative burden or cost.'')

[239] In addition, the Commission has been moving for some time toward a paperless environment, including to paperless disbursement and collection of fees. *See, e.g., Amendment of Part I of the Commission's Rules,* MD Docket No. 19–40, Order, 34 FCC Rcd 1506 (2019) (providing the history of the ongoing transition to electronic payments at the FCC). Toward that end, the Commission has closed and continues to close the lock boxes used for receipt of manual payment of application filing fees. The Commission has and will continue to revise applicable service rules with updated payment instructions as lock boxes are closed.

[240] 47 CFR 0.231 (among other things, OMD's longstanding delegation with respect to fees includes issuing ''notices proposing amendments or adjustments to the fee schedules established under part 1, subpart G, of this chapter.'').

[241] Consolidated Appropriations Act, 2018, Division P—RAY BAUM'S Act of 2018, Title I, FCC Reauthorization, Public Law 115–141 (March 23, 2018).

[242] RAY BAUM'S Act of 2018, Title I, 103(d) (uncodified provisions entitled ''Transitional Rules'').

[243] *Id.*

[244] The uncodified transitional rules for Applications Fees appear to suggest that changes to the schedule after the effective date of the RAY BAUM'S Act must be either an adjustment under section 8(b) or an amendment under section 8(c). Our action here is certainly not limited to the adjustments contemplated by section 8(b) and thus we conclude that the 90-day notice provision in required for amendments under section 8(c) is appropriate.

[245] Motion of Richard Golden to Extend Time to File Comments (filed Nov. 8, 2020).

183. *Scope of proceeding.* We also note that this rulemaking proceeding is limited to the directive in the RAY BAUM'S Act to establish cost-based fees for application processing. As such, we did not propose changing the manner in which the Bureaus and Offices process applications. We accordingly decline to address comments that were filed in this docket regarding the substance of application processing, which are outside the scope of this proceeding, but commenters are welcome to refile any such comments in relevant proceedings, or as petitions for rulemaking, as appropriate.

**Final Regulatory Flexibility Analysis**

1. As required by the Regulatory Flexibility Act of 1980, as amended, (RFA),[246] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking in this docket. The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[247]

*A. Need for, and Objectives of, the Proposed Rules*

2. The *Report and Order* adopts new cost-based application fees, which replace the prior schedule of fees adopted by Congress over 30 years ago. The RAY BAUM'S Act requires the Commission to establish fees for all applications filed with the Commission based on the cost to process such applications.[248] The new fees adopted in this Report and Order are needed to meet the statutory requirement. The objective of this rulemaking is to provide an opportunity to bring this set of fees into the 21st century by lowering fees to account for processing efficiencies where appropriate, adding new fees for applications that were implemented after the original fee schedule was adopted, and eliminating fees for applications that no longer exist. The new fee schedule will further simplify and streamline an overly complex schedule of fees by consolidating matters overseen by both the Wireless Telecommunications Bureau and the International Bureau. We believe that these objectives and the rules we adopt are in the public interest and will benefit both large and small entities because we are simplifying the schedule of fees and also reducing many of the fees.

3. The *Report and Order* adopts a methodology to establish the direct costs of processing applications in services in the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, Enforcement Bureau, International Bureau, Public Safety and Homeland Security Bureau, Office of Engineering and Technology, and Office of Economic Analysis.

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

4. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

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

5. 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.[249]

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

*D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply*

7. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.[250] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [251] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[252] 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.[253]

8. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein.[254] First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.[255] These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.[256]

9. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [257] The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.[258] Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.[259]

[246] 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996).

[247] 5 U.S.C. 603(a).

[248] 47 U.S.C. 158(a).

[249] 5 U.S.C. 604(a)(3).

[250] 5 U.S.C. 603(b)(3).

[251] *Id.* 601(6).

[252] *Id.* 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[253] 15 U.S.C. 632.

[254] *See* 5 U.S.C. 601(3)–(6).

[255] *See* SBA, Office of Advocacy, ''What's New With Small Business?'', *https://cdn.advocacy.sba.gov/wp-content/uploads/2019/09/23172859/Whats-New-With-Small-Business-2019.pdf* (Sept 2019).

[256] *Id.*

[257] 5 U.S.C. 601(4).

[258] The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number small organizations in this small entity description. *See* Annual Electronic Filing Requirement for Small Exempt Organizations—Form 990–N (e-Postcard), ''Who must file,'' *https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard.* We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

[259] *See* Exempt Organizations Business Master File Extract (E.O. BMF), ''CSV Files by Region,'' *https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf.* The IRS Exempt Organization Business Master File (E.O. BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS E.O. BMF data for Region 1-Northeast Area (76,886), Region 2-Mid-Atlantic

10. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' [260] U.S. Census Bureau data from the 2017 Census of Governments [261] indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.[262] Of this number there were 36,931 general purpose governments (county,[263] municipal and town or township [264]) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts [265] with enrollment populations of less than 50,000.[266] Accordingly, based on the 2017 U.S. Census of Governments data, we estimate that at least 48,971 entities fall into the category of ''small governmental jurisdictions.'' [267]

11. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable and IPTV) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' [268] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[269] U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year.[270] Of this total, 3,083 operated with fewer than 1,000 employees.[271] Thus, under this size standard, the majority of firms in this industry can be considered small.

12. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers.[272] Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[273] U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated for the entire year.[274] Of that total, 3,083 operated with fewer than 1,000 employees.[275] Thus under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

13. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers.[276] Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees.[277] U.S. Census Bureau data for 2012 indicate that 3,117 firms operated the entire year.[278] Of this total, 3,083 operated with fewer than 1,000 employees.[279] Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our actions. According to Commission data, one thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers.[280] Of this total, an

and Great Lakes Areas (221,121), and Region 3-Gulf Coast and Pacific Coast Areas (273,702) which includes the continental U.S., Alaska, and Hawaii. This data does not include information for Puerto Rico.

[260] 5 U.S.C. 601(5).

[261] *See* 13 U.S.C. 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with ''2'' and ''7''. *See also* Census of Governments, *https://www.census.gov/programs-surveys/cog/about.html.*

[262] *See* U.S. Census Bureau, 2017 Census of Governments—Organization Table 2. Local Governments by Type and State: 2017 [CG1700ORG02]. *https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html.* Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). *See also* Table 2. CG1700ORG02 Table Notes_Local Governments by Type and State_ 2017.

[263] *See id.* at Table 5. County Governments by Population-Size Group and State: 2017 [CG1700ORG05]. *https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html.* There were 2,105 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

[264] *See id. at* Table 6. Subcounty General-Purpose Governments by Population-Size Group and State: 2017 [CG1700ORG06]. *https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html.* There were 18,729 municipal and 16,097 town and township governments with populations less than 50,000.

[265] *See id.* at Table 10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2017 [CG1700ORG10]. *https://www.census.gov/data/tables/2017/econ/gus/2017-governments.html.* There were 12,040 independent school districts with enrollment populations less than 50,000. *See also* Table 4. Special-Purpose Local Governments by State Census Years 1942 to 2017 [CG1700ORG04], CG1700ORG04 Table Notes Special Purpose Local Governments by State Census Years 1942 to 2017.

[266] While the special purpose governments category also includes local special district governments, the 2017 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

[267] This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,931) and the number of special purpose governments—independent school districts with enrollment populations of less than 50,000 (12,040), from the 2017 Census of Governments—Organizations Tables 5, 6, and 10.

[268] *See* 13 CFR 120.201. The Wired Telecommunications Carrier category formerly used the NAICS code of 517110. As of 2017 the U.S. Census Bureau definition shows the NAICS code as 517311 for Wired Telecommunications Carriers. *See* U.S. Census Bureau, *2017 NAICS Definition, https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017.*

[269] *See* 13 CFR 120.201, NAICS Code 517311 (previously 517110).

[270] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* (517110 Wired Telecommunications Carriers). *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517110.*

[271] *Id.*

[272] *See* 13 CFR 121.201. The Wired Telecommunications Carrier category formerly used the NAICS code of 517110. As of 2017 the U.S. Census Bureau definition shows the NAICs code as 517311 for Wired Telecommunications Carriers. *See https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017.*

[273] *Id.*

[274] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* (517110 Wired Telecommunications Carriers). *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517110.*

[275] *Id.*

[276] *See* 13 CFR 121.201. The Wired Telecommunications Carrier category formerly used the NAICS code of 517110. As of 2017 the U.S. Census Bureau definition shows the NAICs code as 517311 for Wired Telecommunications Carriers. *See, https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017.*

[277] *Id.*

[278] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* (517110 Wired Telecommunications Carriers). *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517110.*

[279] *Id.*

[280] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

estimated 1,006 have 1,500 or fewer employees.[281] Thus, using the SBA's size standard the majority of incumbent LECs can be considered small entities.

14. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers and under that size standard, such a business is small if it has 1,500 or fewer employees.[282] U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year.[283] Of that number, 3,083 operated with fewer than 1,000 employees.[284] Based on these data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.[285] Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees.[286] In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.[287] Also, 72 carriers have reported that they are Other Local Service Providers.[288] Of this total, 70 have 1,500 or fewer employees.[289] Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

15. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for Interexchange Carriers. The closest applicable NAICS Code category is Wired Telecommunications Carriers.[290] The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[291] U.S. Census Bureau data for 2012 indicate that 3,117 firms operated for the entire year.[292] Of that number, 3,083 operated with fewer than 1,000 employees.[293] According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[294] Of this total, an estimated 317 have 1,500 or fewer employees.[295] Consequently, the Commission estimates that the majority of interexchange service providers are small entities.

16. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate NAICS code category for prepaid calling card providers is Telecommunications Resellers. This industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry.[296] The SBA has developed a small business size standard for the category of Telecommunications Resellers.[297] Under that size standard, such a business is small if it has 1,500 or fewer employees.[298] U.S. Census Bureau data for 2012 show that 1,341 firms provided resale services during that year.[299] Of that number, 1,341 operated with fewer than 1,000 employees.[300] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.[301] All 193 carriers have 1,500 or fewer employees.[302] Consequently, the Commission estimates that the majority of prepaid calling card providers are small.

17. *Local Resellers.* The SBA has not developed a small business size standard specifically for Local Resellers. The SBA category of Telecommunications Resellers is the closest NAICs code category for local resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry.[303] Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees.[304] U.S. Census Bureau data from 2012 show

[281] *Id.*

[282] *See* 13 CFR 121.201. The Wired Telecommunications Carrier category formerly used the NAICS code of 517110. As of 2017 the U.S. Census Bureau definition shows the NAICs code as 517311 for Wired Telecommunications Carriers. *See, https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017.*

[283] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* (517110 Wired Telecommunications Carriers). *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517110.s.*

[284] *Id.*

[285] *See* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division, Trends in Telephone Service at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*), *https://apps.fcc.gov/edocs_public/attachmatch/DOC-301823A1.pdf.*

[286] *Id.*

[287] *Id.*

[288] *Id.*

[289] *Id.*

[290] *See* 13 CFR 121.201. The Wired Telecommunications Carrier category formerly used the NAICS code of 517110. As of 2017 the U.S. Census Bureau definition shows the NAICs code as 517311 for Wired Telecommunications Carriers. *See* U.S. Census Bureau, *2017 NAICS Definition, https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017.*

[291] *Id.*

[292] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* (517110 Wired Telecommunications Carriers). *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517110.*

[293] *Id.*

[294] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*). *https://apps.fcc.gov/edocs_public/attachmatch/DOC-301823A1.pdf.*

[295] *Id.*

[296] U.S. Census Bureau, *2017 NAICS Definition,* NAICS Code 517911 ''Telecommunications Resellers'', *https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517911&search=2017%20NAICS%20Search.*

[297] 13 CFR 121.201 (NAICS code 517911).

[298] *Id.*

[299] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* NAICS Code 517911, *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517911.*

[300] *Id.* Available census data does not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

[301] *See Trends in Telephone Service,* at Table 5.3.

[302] *Id.*

[303] U.S. Census Bureau, 2017 NAICS Definition, 517911 Telecommunications Resellers, *https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517911&search=2017%20NAICS%20Search.*

[304] 13 CFR 121.201, NAICS code 517911.

that 1,341 firms provided resale services during that year.[305] Of that number, all operated with fewer than 1,000 employees.[306] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.[307] Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees.[308] Consequently, the Commission estimates that the majority of local resellers are small entities.

18. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry.[309] The SBA has developed a small business size standard for the category of Telecommunications Resellers.[310] Under that size standard, such a business is small if it has 1,500 or fewer employees.[311] 2012 Census Bureau data show that 1,341 firms provided resale services during that year.[312] Of that number, 1,341 operated with fewer than 1,000 employees.[313] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.[314] Of this total, an estimated 857 have 1,500 or fewer employees.[315] Consequently, the Commission estimates that the majority of toll resellers are small entities. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. MVNOs are included in this industry.[316] The SBA has developed a small business size standard for the category of Telecommunications Resellers.[317] Under that size standard, such a business is small if it has 1,500 or fewer employees.[318] 2012 Census Bureau data show that 1,341 firms provided resale services during that year.[319] Of that number, 1,341 operated with fewer than 1,000 employees.[320] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.[321] Of this total, an estimated 857 have 1,500 or fewer employees.[322] Consequently, the Commission estimates that the majority of toll resellers are small entities.

19. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS code category is for Wired Telecommunications Carriers, as defined in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees.[323] U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year.[324] Of this total, 3,083 operated with fewer than 1,000 employees.[325] Thus, under this size standard, the majority of firms in this industry can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.[326] Of these, an estimated 279 have 1,500 or fewer employees.[327] Consequently, the Commission estimates that most Other Toll Carriers are small entities.

20. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services.[328] The appropriate size

[305] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* NAICS Code 517911, *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517911.*

[306] *Id.* Available census data does not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

[307] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

[308] *See id.*

[309] U.S. Census Bureau, 2017 NAICS Definition, 517911 Telecommunications Resellers, *https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517911&search=2017%20NAICS%20Search.*

[310] 13 CFR 121.201, NAICS code 517911.

[311] *Id.*

[312] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* NAICS Code 517911, *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517911.*

[313] *Id.* Available census data does not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

[314] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

[315] *See id.*

[316] U.S. Census Bureau, 2017 NAICS Definition, 517911 Telecommunications Resellers, *https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517911&search=2017%20NAICS%20Search.*

[317] 13 CFR 121.201, NAICS code 517911.

[318] *Id.*

[319] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* NAICS Code 517911, *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517911.*

[320] *Id.* Available census data does not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

[321] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (Sept. 2010) (*Trends in Telephone Service*).

[322] *See id.*

[323] *See* 13 CFR 120.201, NAICS Code 517311 (previously 517110).

[324] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* (517110 Wired Telecommunications Carriers). *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517110.*

[325] *Id.*

[326] *Trends in Telephone Service,* at Table 5.3.

[327] *Id.*

[328] U.S. Census Bureau, 2012 NAICS Definitions, ''517210 Wireless Telecommunications Carriers (Except Satellite).'' *See https://factfinder.census.gov/faces/affhelp/jsf/pages/metadata.xhtml?lang=en&type=ib&id=ib.en./ECN.NAICS2012.517210.*

standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[329] For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year.[330] Of this total, 955 firms had employment of 999 or fewer employees.[331] Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

21. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' [332] These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public.[333] These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts.[334] The 2012 Economic Census reports that 751 firms in this category operated in that year.[335] Of that number, 656 had annual receipts of $25,000,000 or less.[336] Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

22. The Commission has estimated the number of licensed commercial television stations to be 1,377.[337] Of this total, 1,258 stations (or about 91%) had revenues of $41.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on November 16, 2017, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 384.[338] Notwithstanding, the Commission does not compile and otherwise does not have access to information on the revenue of noncommercial educational broadcast services stations that would permit it to determine how many such stations would qualify as small entities. There are also 2,300 low power television stations, including Class A stations (LPTV) and 3,681 TV translator stations.[339] Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

23. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations [340] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

24. *Radio Stations.* This Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' [341] The SBA has established a small business size standard for this category as firms having $41.5 million or less in annual receipts.[342] Economic Census data for 2012 show that 2,849 radio station firms operated during that year.[343] Of that number, 2,806 firms operated with annual receipts of less than $25 million per year.[344] Therefore, based on the SBA's size standard the majority of such entities are small entities.

25. According to Commission staff review of the BIA/Kelsey, LLC's Media Access Pro Radio Database as of January 2018, about 11,261 (or about 99.9%) of 11,383 commercial radio stations had revenues of $41.5 million or less and thus qualify as small entities under the SBA definition.[345] The Commission has estimated the number of licensed commercial AM radio stations to be 4,633 stations and the number of commercial FM radio stations to be 6,738, for a total number of 11,371.[346] We note the Commission has also estimated the number of licensed noncommercial FM radio stations to be 4,128.[347] Nevertheless, the Commission does not compile and otherwise does not have access to information on the revenue of noncommercial stations that would permit it to determine how many such stations would qualify as small entities. We also note, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included.[348] The Commission's estimate therefore likely overstates the number of small entities that might be affected by

[329] 13 CFR 121.201, NAICS code 517210.

[330] U.S. Census Bureau, *2012 Economic Census of the United States,* Table EC1251SSSZ5, *Information: Subject Series: Estab and Firm Size: Employment Size of Firms for the U.S.: 2012* NAICS Code 517210. *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517210.*

[331] *Id.* Available census data does not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''1000 employees or more.''

[332] U.S. Census Bureau, 2017 NAICS Definitions, ''515120 Television Broadcasting,'' *https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=515120&search=2017+NAICS+Search&search=2017.*

[333] *Id.*

[334] 13 CFR 121.201; 2012 NAICS code 515120.

[335] U.S. Census Bureau, Table No. EC1251SSSZ4, *Information: Subject Series—Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* (515120 Television Broadcasting). *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ4//naics~515120.*

[336] *Id.*

[337] *Broadcast Station Totals* as of June 30, 2018, Press Release (MB, rel. Jul. 3, 2018) (June 30, 2018 Broadcast Station Totals Press Release), *https://docs.fcc.gov/public/attachments/DOC-352168A1.pdf.*

[338] *Id.*

[339] *Id.*

[340] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other or a third party or parties controls or has the power to control both.'' 13 CFR 21.103(a)(1).

[341] U.S. Census Bureau, 2017 NAICS Definitions, ''515112 Radio Stations,'' *https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=515112&search=2017+NAICS+Search&search=2017.*

[342] 13 CFR 121.201; NAICS code 515112.

[343] U.S. Census Bureau, Table No. EC1251SSSZ4, *Information: Subject Series—Establishment and Firm Size: Receipts Size of Firms for the United States: 2012* NAICS Code 515112, *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ4//naics~515112.*

[344] *Id.*

[345] BIA/Kelsey, MEDIA Access Pro Database (viewed Jan. 26, 2018).

[346] Broadcast Station Totals as of June 30, 2018, Press Release (MB Jul. 3, 2018) (June 30, 2018 Broadcast Station Totals), *https://docs.fcc.gov/public/attachments/DOC-352168A1.pdf.*

[347] *Id.*

[348] ''[Business concerns] are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has power to control both.'' 13 CFR 121.103(a)(1).

its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, to be determined a ''small business,'' an entity may not be dominant in its field of operation.[349] We further note, that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules may apply does not exclude any radio station from the definition of a small business on these basis, thus our estimate of small businesses may therefore be over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

26. *Cable Companies and Systems (Rate Regulation).* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide.[350] Industry data indicate that there are 4,600 active cable systems in the United States.[351] Of this total, all but five cable operators nationwide are small under the 400,000-subscriber size standard.[352] In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[353] Commission records show 4,600 cable systems nationwide.[354] Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records.[355] Thus, under this standard as well, we estimate that most cable systems are small entities.

27. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [356] As of 2019, there were approximately 48,646,056 cable video subscribers in the United States.[357] Accordingly, an operator serving fewer than 486,460 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate.[358] Based on available data, we find that all but five incumbent cable operators are small entities under this size standard.[359] We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million.[360] Therefore we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

28. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS is included in SBA's economic census category ''Wired Telecommunications Carriers.'' [361] The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks.[362] Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services.[363] By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.[364] The SBA determines that a wireline business is small if it has fewer than 1,500 employees.[365] U.S. Census Bureau data for 2012 indicates that 3,117 wireline companies were operational during that year.[366] Of that number, 3,083 operated with fewer than 1,000 employees.[367] Based on that data, we conclude that the majority of wireline firms are small under the applicable SBA standard. Currently, however, only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network.[368] DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we must conclude that internally developed FCC data are persuasive that, in general, DBS service is provided only by large firms.

29. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking,

[349] *Id.* 121.102(b).

[350] 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. *Implementation of Sections of the 1992 Cable Act: Rate Regulation,* Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408 (1995).

[351] The number of active, registered cable systems comes from the Commission's Cable Operations and Licensing System (COALS) database on August 15, 2015. *See* FCC, *Cable Operations and Licensing System (COALS), www.fcc.gov/coals* (last visited Oct. 25, 2016).

[352] S&P Global Market Intelligence, *Top Cable MSOs as of 12/2019, https://platform.marketintelligence.spglobal.com/(Dec 2019).* The five cable operators all had more than 400,000 basic cable subscribers.

[353] 47 CFR 76.901(c).

[354] *See supra* note 351.

[355] *Id.*

[356] 47 CFR 76.90(f) and notes ff. 1, 2, and 3.

[357] S&P Global Market Intelligence, U.S. Cable Subscriber Highlights, Basic Subscribers(actual) 2018, U.S. Cable MSO Industry Total.

[358] 47 CFR 76.901(f) and notes ff. 1, 2, and 3.

[359] S&P Global Market Intelligence, *U.S. Cable Subscriber Highlights, Basic Subscribers(actual) 2019, U.S. Cable MSO Industry Total, see also U.S. Multichannel Industry Benchmarks, U.S. Cable Industry Benchmarks, Basic Subscribers 2019Y, https://platform.marketintelligence.spglobal.com.*

[360] The Commission receives such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(f) of the Commission's rules. *See* 47 CFR 76.901(f).

[361] *See* 13 CFR 120.201. The Wired Telecommunications Carrier category formerly used the NAICS code of 517110. As of 2017 the U.S. Census Bureau definition shows the NAICS code as 517311 for Wired Telecommunications Carriers. *See https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017.*

[362] *Id.*

[363] *See id.* Examples of this category are broadband internet service providers (*e.g.,* cable, DSL); local telephone carriers (wired); cable television distribution services; long-distance telephone carriers (wired); CCTV services; VoIP service providers, using own operated wired telecommunications infrastructure; DTH services; telecommunications carriers (wired); satellite television distribution systems; and MMDS.

[364] *Id.*

[365] 13 CFR 121.201, NAICS Code 517110.

[366] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* (517110 Wired Telecommunications Carriers). *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517110.*

[367] *Id.*

[368] *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Eighteenth Report,* Table III.A.5, 32 FCC Rcd 568, 595 (Jan. 17, 2017).

communications telemetry, and radar station operation.[369] This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.[370] Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.[371] The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with annual receipts of $35 million or less.[372] For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year.[373] Of those firms, a total of 1,400 had annual receipts less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999.[374] Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

30. *RespOrgs.* Responsible Organizations, or RespOrgs, are entities chosen by toll free subscribers to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber.[375] Although RespOrgs are often wireline carriers, they can also include non-carrier entities. Therefore, in the definition herein of RespOrgs, two categories are presented, *i.e.,* Carrier RespOrgs and Non-Carrier RespOrgs.

31. *Carrier RespOrgs.* Neither the Commission, the U.S. Census, nor the SBA have developed a definition for Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Carrier RespOrgs are Wired Telecommunications Carriers,[376] and Wireless Telecommunications Carriers (except satellite).[377]

32. The U.S. Census Bureau defines Wired Telecommunications Carriers as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' [378] The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees.[379] U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year.[380] Of this total, 3,083 operated with fewer than 1,000 employees.[381] Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireline-based technology are small.

33. The U.S. Census Bureau defines Wireless Telecommunications Carriers (except satellite) as establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services.[382] The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees.[383] Census data for 2012 show that 967 Wireless Telecommunications Carriers operated in that year. Of that number, 955 operated with less than 1,000 employees.[384] Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireless-based technology are small.

34. *Non-Carrier RespOrgs.* Neither the Commission, the U.S. Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Non-Carrier RespOrgs are ''Other Services Related to Advertising'' [385] and ''Other Management Consulting Services.'' [386]

35. The U.S. Census defines Other Services Related to Advertising as comprising establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services).[387] The SBA has established a size standard for this industry as annual receipts of $15 million dollars or less.[388] Census data for 2012 show that 5,804 firms operated in this industry for the entire year. Of that number, 5,612 operated with annual receipts of less than $10 million.[389] Based on that data we conclude that the majority of Non-Carrier RespOrgs who provide toll-free number (TFN)-related advertising services are small.

36. The U.S. Census defines Other Management Consulting Services as establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical

[369] *See* U.S. Census Bureau, 2017 NAICS Definitions, NAICS Code ''517919 All Other Telecommunications'', *https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=517919&search=2017+NAICS+Search&search=2017.*

[370] *Id.*

[371] *Id.*

[372] *See* 13 CFR 121.201, NAICS code 517919.

[373] U.S. Census Bureau, *2012 Economic Census of the United States,* Table EC1251SSSZ4, Information: Subject Series—Estab and Firm Size: Receipts Size of Firms for the United States: 2012, NAICS code 517919, *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ4//naics~517919.*

[374] *Id.*

[375] *See* 47 CFR 52.101(b).

[376] 13 CFR 121.201, NAICS code 517110.

[377] *Id.*

[378] *See* 13 CFR 120.201. The Wired Telecommunications Carrier category formerly used the NAICS code of 517110. As of 2017 the U.S. Census Bureau definition shows the NAICS code as 517311 for Wired Telecommunications Carriers. *See* U.S. Census Bureau, *2017 NAICS Definition, https://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517311&search=2017.*

[379] *See* 13 CFR 120.201, NAICS Code 517311 (previously 517110).

[380] *See* U.S. Census Bureau, *2012 Economic Census of the United States,* Table No. EC1251SSSZ5, *Information: Subject Series—Estab & Firm Size: Employment Size of Firms: 2012* (517110 Wired Telecommunications Carriers). *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517110.*

[381] *Id.*

[382] U.S. Census Bureau, 2012 NAICS Definitions, ''517210 Wireless Telecommunications Carriers (Except Satellite).'' *See https://factfinder.census.gov/faces/affhelp/jsf/pages/metadata.xhtml?lang=en&type=ib&id=ib.en./ECN.NAICS2012.517210.*

[383] 13 CFR 120.201, NAICS code 517120.

[384] U.S. Census Bureau, *2012 Economic Census of the United States,* Table EC1251SSSZ5, Information: Subject Series: Estab and Firm Size: Employment Size of Firms for the U.S.: 2012 NAICS Code 517210. *https://factfinder.census.gov/bkmk/table/1.0/en/ECN/2012_US/51SSSZ5//naics~517210*pid=ECN_2012_US_51SSSZ4&prodType=table.

[385] 13 CFR 120.201, NAICS code 541890.

[386] 13 CFR 120.201, NAICS code 541618.

[387] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[388] 13 CFR 120.201, NAICS code 541890.

[389] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

distribution, and logistics consulting). Establishments providing telecommunications or utilities management consulting services are included in this industry.[390] The SBA has established a size standard for this industry of $15 million dollars or less.[391] Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than $10 million in annual receipts.[392] Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related management consulting services are small.[393]

37. In addition to the data contained in the four (see above) U.S. Census NAICS code categories that provide definitions of what services and functions the Carrier and Non-Carrier RespOrgs provide, Somos, the trade association that monitors RespOrg activities, compiled data showing that as of July 1, 2016 there were 23 RespOrgs operational in Canada and 436 RespOrgs operational in the United States, for a total of 459 RespOrgs currently registered with Somos.

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

38. This Report and Order does not adopt any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements. Licensees, including small entities, will be required to pay application fees after such fees are adopted. In some cases, we have adopted new application fees, as required by the RAY BAUM'S Act, but we are not adopting specific reporting or recordkeeping requirements for licensees.

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

39. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for 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 small entities.[394]

40. The fees adopted are based on the Commission's costs in processing the applications. This is now required under the RAY BAUM'S Act, in section 8 of the Communications Act.[395] In many instances, the new fees are much lower than prior fees. In some cases, the new fees are similar to prior fees or slightly higher. There are, however, some new fees adopted for applications that previously had no fees. The Commission is required to base the application fees on costs and is required to adopt new cost-based fees. There are some exemptions set out in the statute, but no specific exemption for small entities. Due to the RAY BAUM'S Act requirement to adopt cost-based fees, the Commission did not have an opportunity or the discretion to minimize new fees that had not been previously collected. The Commission, in following the statute, adopted cost-based criteria for all applications, whether fees were lowered, stayed the same, or were increased.

41. *Report to Congress:* The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

## II. Ordering Clauses

42. Accordingly, *it is ordered* that, pursuant to section 8 of the Communications Act of 1934, as amended, 47 U.S.C. 158, this Report and Order *is hereby adopted.*

43. *It is further ordered* that the Motion for Extension of Time filed by Richard Golden is *denied.*

44. *It is further ordered* that Commission's rules *are amended* as set forth in in the back of this summary, and such rule amendments *shall be effective* 30 days after the date of publication in the **Federal Register**, except for §§ 1.1102, 1.1103, 1.1104, 1.1105, 1.1106, 1.1107, and 1.1109, which require notice to Congress and also require certain updates to the FCC's information technology systems and internal procedures to ensure efficient and effective implementation. Sections 1.1102, 1.1103, 1.1104, 1.1105, 1.1106, 1.1107, and 1.1109 will not take effect until the requisite notice has been provided to Congress, the FCC's information technology systems and internal procedures have been updated, and the Commission publishes notice(s) in the **Federal Register** announcing the effective date of such rules.

45. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 1**

Administrative practice and procedure.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

## Final Rules

Part 1 of Title 47 of the Code of Federal Regulations is amended to read as follows:

## PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461, unless otherwise noted.

■ 2. Amend § 1.767 by revising paragraph (e) to read as follows:

### § 1.767 Cable landing licenses.

* * * * *

(e) A separate application shall be filed with respect to each individual cable system for which a license is requested or a modification of the cable system, renewal, or extension of an existing license is requested. Applicants for common carrier cable landing licenses shall also separately file an international section 214 authorization for overseas cable construction.

* * * * *

■ 3. Revise § 1.1101 to read as follows:

### § 1.1101 Authority.

Authority to impose and collect these charges is contained in section 8 of the Communications Act, as amended by sections 102 and 103 of title I of the Consolidated Appropriations Act of 2018 (Pub. L. 115–141, 132 Stat. 1084), 47 U.S.C. 158, which directs the Commission to assess and collect

[390] *http://www.census,gov/cgi-bin/sssd/naics.naicsrch.*

[391] 13 CFR 120.201, NAICS code 514618.

[392] *http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_51SSSZ4&prodType=table.*

[393] The four NAICS code-based categories selected above to provide definitions for Carrier and Non-Carrier RespOrgs were selected because as a group they refer generically and comprehensively to all RespOrgs.

[394] 5 U.S.C. 603(c)(1)–(c)(4).

[395] 47 U.S.C. 158(a).

application fees to recover the costs of the Commission to process applications.

■ 4. Revise § 1.1102 to read as follows:

**§ 1.1102 Schedule of charges for applications and other filings in the wireless telecommunications services.**

(a) In tables to this section, the amounts appearing in the column labeled ''Fee Amount'' are for application fees only. Certain services, as indicated in the table below, also have associated regulatory fees that must be paid at the same time the application fee is paid. For more information on the associated regulatory fees, please refer to the most recent Wireless Telecommunications Bureau Fee Filing Guide for the corresponding regulatory fee amount located at *https://www.fcc.gov/licensing-databases/fees/application-processing-fees*. For additional guidance, please refer to § 1.1152 of this chapter. Application fee payments can be made electronically using the Commission's Universal Licensing System (ULS). Remit manual filings and/or payments for these services to: Federal Communications Commission, Wireless Bureau Applications, P.O. Box 979097, St. Louis, MO 63197–9000.

(b) Site-based licensed services are services for which an applicant's initial application for authorization generally provides the exact technical parameters of its planned operations (such as transmitter location, area of operation, desired frequency(s)/band(s), power levels). Site-based licensed services include land mobile systems (one or more base stations communicating with mobile devices, or mobile-only systems), point-to-point systems (two stations using a spectrum band to form a data communications path), point-to-multipoint systems (one or more base stations that communicate with fixed remote units), as well as radiolocation and radionavigation systems. Examples of these licenses include, but are not limited to, the Industrial/Business Pool, Trunked licenses and Microwave Industrial/Business Pool licenses.

TABLE 1 TO PARAGRAPH (b)

| Site-based license applications | New fee |
|---|---|
| New license, major modification | $95. |
| Extension Requests | $50. |
| Special temporary authority | $135. |
| Assignment/transfer of control, initial call sign | $50. |
| Assignment/transfer of control, each subsequent call sign, fee capped at 10 total call signs per application. | $35. |
| Rule waivers associated with applications for assignment/transfer of control, per transaction, assessed on the lead application. | $380. |
| Rule waiver not associated with an application for assignment/transfer of control | $380. |
| Renewal | $35. |
| Spectrum leasing | $35. |
| Maritime, Aviation, Microwave, Land Mobile, and Rural Radio | Please refer to the Wireless Telecommunications Bureau Fee Filing Guide for Information on the payment of an associated regulatory fee. |

(c) Personal licenses authorize shared use of certain spectrum bands or provide a required permit for operation of certain radio equipment. In either case, personal licenses focus only on eligibility and do not require technical review. Examples of these licenses include, but are not limited to, Amateur Radio Service licenses (used for recreational, noncommercial radio services), Ship licenses (used to operate all manner of ships), Aircraft licenses (used to operate all manner of aircraft), Commercial Radio Operator licenses (permits for ship and aircraft station operators, where required), General Mobile Radio Service (GMRS) licenses (used for short-distance, two-way voice communications using hand-held radios, as well as for short data messaging applications), Vanity, and Restricted Operator licenses.

TABLE 2 TO PARAGRAPH (c)

| Personal license application | New fee |
|---|---|
| New license, modification | $35. |
| Special temporary authority | $35. |
| Rule waiver | $35. |
| Renewal | $35. |
| Vanity Call Sign (Amateur Radio Service) | $35. |
| Marine (Ship), Aviation (Aircraft), and GMRS | Please refer to the Wireless Telecommunications Bureau Fee Filing Guide for Information on the payment of an associated regulatory fee. |

(d) Geographic-based licenses authorize an applicant to construct anywhere within a particular geographic area's boundary (subject to certain technical requirements, including interference protection) and generally do not require applicants to submit additional applications for prior Commission approval of specific transmitter locations. Examples of these licenses include, but are not limited to, the 220–222 MHz Service licenses, Upper Microwave Flexible Use Service licenses, 600 MHz Band Service licenses, and 700 MHz Lower Band Service licenses.

TABLE 3 TO PARAGRAPH (d)

| Geographic-based license applications | New fee |
|---|---|
| New License (other than Auctioned Licenses), Major Modification | $305. |
| New License (Auctioned Licenses, Post-Auction Consolidated Long-Form and Short-Form Fee) (per application; NOT per call sign). | $3,175. |
| Renewal | $50. |
| Minor Modification | $200. |
| Construction Notification/Extensions | $290. |
| Special Temporary Authority | $335. |
| Assignment/Transfer of Control, initial call sign | $195. |
| Assignment/Transfer of Control, subsequent call sign | $35. |
| Spectrum Leasing | $165. |
| Rule waivers associated with applications for assignment/transfer of control, per transaction, assessed on the lead application. | $380. |
| Rule waiver not associated with an application for assignment/transfer of control | $380. |
| Designated Entity Licensee Reportable Eligibility Event | $50. |
| Maritime, Microwave, Land Mobile, 218–219 MHz | Please refer to the Wireless Telecommunications Bureau Fee Filing Guide for information on the payment of an associated regulatory fee. |

■ 5. Amend § 1.1103 by revising the section heading and the table to read as follows:

**§ 1.1103 Schedule of charges for experimental radio services.**

* * * * *

TABLE 1 TO § 1.1103

| | New fee |
|---|---|
| Experimental License Application, per Call Sign: | |
| New Station Authorization | $125 |
| Modification of Authorization | 125 |
| Renewal of Station Authorization | 125 |
| Assignment of License or Transfer of Control | 125 |
| Special Temporary Authority | 125 |
| Confidentiality Request | 50 |
| Equipment Approval Applications: | |
| Assignment of Grantee Code | 35 |

■ 6. Amend § 1.1104 by revising the table to read as follows:

**§ 1.1104 Schedule of charges for applications and other filings for media services.**

* * * * *

TABLE 1 TO § 1.1104

| | New fee |
|---|---|
| Application for Full Power and Class A TV: | |
| Full Power TV, Class A TV, new and major change construction permit | $4,260 (if no auction).<br>$4,835 (if auction—includes Post-Auction Consolidated Long Form and Short Form Fee). |
| Full Power TV, minor modification construction permit | $1,335. |
| Full Power TV, Class A TV, new license | $380. |
| Full Power TV, Class A TV, license renewal | $330. |
| Full Power TV, Class A TV, license assignment, long form | $1,245. |
| Full Power TV, Class A TV, license assignment, short form | $405. |
| Full Power TV, Class A TV, transfer of control, long form | $1,245. |
| Full Power TV, Class A TV, transfer of control, short form | $405. |
| Full Power TV, Class A TV, call sign | $170. |
| Full Power TV, Class A TV, STA | $270. |
| Full Power TV, petition for rulemaking | $3,395. |
| Full Power TV, ownership report | $85. |
| Application for TV translator and LPTV: | |
| TV translator and LPTV, new or major change construction permit | $775 (if no auction).<br>$1,350 (if auction—includes Consolidated Long Form and Short Form Fee). |
| TV translator and LPTV, new license | $215. |
| TV translator and LPTV, license renewal | $145. |
| TV translator and LPTV, STA | $270. |

TABLE 1 TO § 1.1104—Continued

| | New fee |
|---|---|
| TV translator and LPTV, license assignment | $335. |
| TV translator and LPTV, transfer of control | $335. |
| TV translator and LPTV, call sign | $170. |
| Application for Cable Television and CARS License: | |
| Cable television, CARS license | $450. |
| Cable television, CARS license modification, major | $345. |
| Cable television, CARS license modification, minor | $50. |
| Cable television, CARS license renewal | $260. |
| Cable television, CARS, license assignment | $365. |
| Cable television, CARS, transfer of control | $465. |
| Cable television, CARS, STA | $225. |
| Cable television, special relief petition | $1,615. |
| Cable television, CARS license, registration statement | $105. |
| Cable television, multichannel video programming distributor (MVPD) aeronautical frequency usage notification. | $90. |
| Application for Commercial AM Stations: | |
| AM radio new or major change construction permit | $3,980 (if no auction).<br>$4,555 (if auction—includes Consolidated Long Form and Short Form Fee). |
| AM radio, minor modification construction permit | $1,625. |
| AM radio, new license | $645. |
| AM radio, directional antenna | $1,260. |
| AM radio, license renewal | $325. |
| AM radio, license assignment, long-form | $1,005. |
| AM radio, license assignment, short-form | $425. |
| AM radio, transfer of control, long-form | $1,005. |
| AM radio, transfer of control, short-form | $425. |
| AM radio, call sign | $170. |
| AM radio, STA | $290. |
| AM radio, ownership report | $85. |
| Application for Commercial FM Stations: | |
| FM radio new or major change construction permit | $3,295 (if no auction).<br>$3,870 (if auction—includes Consolidated Long Form and Short Form Fee). |
| FM radio, minor modification construction permit | $1,265. |
| FM radio, new license | $235. |
| FM radio, directional antenna | $630. |
| FM radio, license renewal | $325. |
| FM radio, license assignment, long-form | $1,005. |
| FM radio, license assignment, short-form | $425. |
| FM radio, transfer of control, long-form | $1,005. |
| FM radio, transfer of control, short-form | $425. |
| FM radio, call sign | $170. |
| FM radio, STA | $210. |
| FM radio, petition for rulemaking | $3,180. |
| FM radio, ownership report | $85. |
| Application for FM Translators: | |
| FM translator new or major change construction permit | $705.<br>$1,280 (if auction—includes Consolidated Long Form and Short Form Fee). |
| FM translator, minor modification construction permit | $210. |
| FM translator, new license | $180. |
| FM translator and booster, license renewal | $175. |
| FM translator and booster, STA | $170. |
| FM translator, license assignment | $290. |
| FM translator, transfer of control | $290. |
| FM booster, new or major change construction permit | $705. |
| FM booster, new license fee | $180. |
| FM booster, STA | $170. |
| Application for Section 310(b)(4) Foreign Ownership Petition: | |
| Section 310(b)(4) Foreign Ownership Petition (separate and additional to fee required for underlying application, if any).. | $2,485. |

■ 7. Amend § 1.1105 by revising the table to read as follows:

**§ 1.1105 Schedule of charges for applications and other filings for the wireline competition services.**

* * * * *

TABLE 1 TO § 1.1105

| Application | New fee |
|---|---|
| Domestic 214 Applications—Part 63 Transfers of Control | $1,230 |
| Domestic 214 Applications—Special Temporary Authority | 675 |
| Domestic 214 Applications—Part 63 Discontinuances (Non-Standard Review) (Technology Transition Filings Subject To Section 63.71(f)(2)(i) or Not Subject To Streamlined Automatic Grant, and Filings From Dominant Carriers Subject To 60-Day Automatic Grant) | 1,230 |
| Domestic 214 Applications—Part 63 Discontinuances (Standard Streamlined Review) (All Other Domestic 214 Discontinuance Filings) | 335 |
| VoIP Numbering | 1,330 |
| Standard Tariff Filing | 930 |
| Complex Tariff Filing (annual access charge tariffs, new or restructured rate plans) (Large—all price cap LECs and entities involving more than 100 LECs) | 6,540 |
| Complex Tariff Filing (annual access charge tariffs, new or restructured rate plans) (Small—other entities) | 3,270 |
| Application for Special Permission for Waiver of Tariff Rules | 375 |
| Waiver of Accounting Rules | 4,415 |
| Universal Service Fund Auction (combined long-form and short-form fee, paid only by winning bidder) | 2,965 |

■ 8. Amend § 1.1106 by revising the section heading and table to read as follows:

**§ 1.1106 Schedule of charges for applications and other filings for the enforcement services.**

* * * * *

TABLE 1 TO § 1.1106

| Application | New fee |
|---|---|
| Formal Complaints and Pole Attachment Complaints | $540 |
| Petitions Regarding Law Enforcement Assistance Capability under CALEA | 6,945 |

■ 9. Amend § 1.1107 by revising the table to read as follows:

**§ 1.1107 Schedule of charges for applications and other filings for international services.**

* * * * *

TABLE 1 TO § 1.1107

| | New fee |
|---|---|
| Cable Landing License, per Application: | |
| New License | $3,835. |
| Assignment/Transfer of Control | $1,230. |
| Pro Forma Assignment/Transfer of Control | $400. |
| Foreign Carrier Affiliation Notification | 495. |
| Modification | $1,230. |
| Renewal | $2,440. |
| Special Temporary Authority | $675. |
| Waiver | $335. |
| International Section 214 Authorization, per Application: | |
| New Authorization | $785. |
| Assignment/transfer of control | $1,230. |
| Pro forma Assignment/transfer of control | $400. |
| Foreign Carrier Affiliation Notification | $495. |
| Modification | $675. |
| Special Temporary Authority | $675. |
| Waiver | $335. |
| Discontinuance of services | $335. |
| Section 310(b) Foreign Ownership, per Application: | |
| Petition for Declaratory Ruling | $2,485. |
| Waiver | $335. |
| Recognized Operating Agency per Application: | |
| Application for ROA Status | $1,145. |
| Waiver | $335. |
| Data Network Identification Code (DNIC), per Application: | |
| New DNIC | $785. |

TABLE 1 TO § 1.1107—Continued

| | New fee |
|---|---|
| Waiver | $335. |
| International Signaling Point Code (ISPC), per Application: | |
| New ISPC | $785. |
| Transfer of Control | $675. |
| Modification | $675. |
| Waiver | $335. |
| Satellite Earth Station Applications: | |
| Fixed or Temporary Fixed Transmit or Transmit/Receive Earth Stations, per Call Sign: | |
| Initial application, single site | $360. |
| Initial application, multiple sites | $6,515. |
| Receive Only Earth Stations License or Registration, per Call Sign or Registration: | |
| Initial application or registration, single site | $175. |
| Initial application or registration, multiple sites, per system | $465. |
| Initial application for Blanket Earth Stations, per Call Sign | $360. |
| Mobile Earth Stations Applications, per Call Sign: | |
| Initial Application for Blanket Authorization, per system, per Call Sign | $815. |
| Amendments to Earth Station Applications or Registrations per Call Sign: | |
| Single Site | $430. |
| Multiple Sites | $630. |
| Earth Stations, Other Applications: | |
| Applications for Modification of Earth Station Licenses or Registrations, per Call Sign | $545. |
| Assignment or Transfer of Control of Earth Station Licenses or Registrations, per Call Sign. | $745 (first call sign).<br>$400 (for each additional call sign). |
| Pro Forma Assignment or Transfer of Control of Earth Station Licenses or Registrations, per Transaction. | $400. |
| Earth Station Renewals of Licenses, per Call Sign: | |
| Single Site | $115. |
| Multiple Sites | $145. |
| Earth Station Requests for U.S. Market Access for Non-U.S. Licensed Space Stations | See Space Stations. |
| Satellite Space Station Applications: | |
| Space Stations, Geostationary Orbit: | |
| Application for Authority to Construct, Deploy, and Operate, per satellite | $3,555. |
| Application for Authority to Operate, per satellite | $3,555. |
| Space Stations, Non-Geostationary Orbit: | |
| Application for Authority to Construct, Deploy, and Operate, per system of technically identical satellites, per Call Sign. | $15,050. |
| Application for Authority to Operate, per system of technically identical satellites, per Call Sign. | $15,050. |
| Space Stations, Petition for Declaratory Ruling for Foreign-Licensed Space Station to Access the U.S. Market: | |
| Geostationary Orbit, per Call Sign | $3,555. |
| Non-Geostationary Orbit, per Call Sign | $15,050. |
| Small Satellites, per Call Sign | $2,175. |
| Space Stations, Small Satellites, or Small Spacecraft: | |
| Application to Construct, Deploy, and Operate, per Call Sign | $2,175. |
| Other Applications for Space Stations: | |
| Space Stations, Amendments, per Call Sign | $1,620. |
| Space Stations, Modifications, per Call Sign | $2,495. |
| Space Stations, Assignment or Transfer of Control, per Call Sign | $745 (first call sign).<br>$400 (for each additional call sign). |
| Space Stations, Pro Forma Assignment or Transfer of Control, per transaction | $400. |
| Space Stations, Special Temporary Authority, per Call Sign | $1,435. |
| Unified Space Station and Earth Station Initial Application, Amendment, and Modification: | |
| Unified Space Station and Earth Station Initial Application, Amendment, and Modification | Applicable Space Station Fee + Applicable Earth Station Fee. |
| International Broadcast Stations (IBS) Applications: | |
| New Construction Permit | $4,010. |
| Construction Permit Modification | $4,010. |
| New License | $905. |
| License Renewal | $230. |
| Frequency Assignment | $80. |
| Transfer of Control | $595. |
| Special Temporary Authority | $395. |
| Permit to Deliver Programs to Foreign Broadcast Stations under Section 325(c) Applications: | |
| New License | $360. |
| License Modification | $185. |
| License Renewal | $155. |
| Special Temporary Authority | $155. |
| Transfer of Control | $260. |

**§ 1.1116 [Amended]**

■ 10. Amend § 1.1116 by removing paragraph (e)(4).

[FR Doc. 2021–03042 Filed 3–18–21; 8:45 am]

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**Federal Register**

Vol. 86, No. 52

Friday, March 19, 2021

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| | |
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| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
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| Electronic and on-line services (voice) | **741–6020** |
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## FEDERAL REGISTER PAGES AND DATE, MARCH

11847–12078 ..... 1
12079–12256 ..... 2
12257–12514 ..... 3
12515–12798 ..... 4
12799–13148 ..... 5
13149–13442 ..... 8
13443–13622 ..... 9
13623–13796 ..... 10
13797–13970 ..... 11
13971–14220 ..... 12
14221–14362 ..... 15
14363–14524 ..... 16
14525–14688 ..... 17
14689–14806 ..... 18
14807–15068 ..... 19

## CFR PARTS AFFECTED DURING MARCH

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Proclamations:**
10149 ..... 11847
10150 ..... 12515
10151 ..... 12517
10152 ..... 12519
10153 ..... 12523
10154 ..... 12525
10155 ..... 12527

**Executive Orders:**
14017 ..... 11849
14018 ..... 11855
14019 ..... 13623
14020 ..... 13797
14021 ..... 13803

**Administrative Orders:**
Memorandums:
NSPM-16 of February 7, 2019 (amended by EO 14020) ..... 13797
Notices:
Notice of March 2, 2021 ..... 12793
Notice of March 2, 2021 ..... 12795
Notice of March 2, 2021 ..... 12797
Notice of March 5, 2021 ..... 13621

**5 CFR**

532 ..... 11857, 12799

**Proposed Rules:**
849 ..... 13217

**6 CFR**

Ch. I ..... 13971

**7 CFR**

983 ..... 12799
1783 ..... 14525

**Proposed Rules:**
800 ..... 12119
984 ..... 12837

**8 CFR**

103 ..... 14221
106 ..... 14221
212 ..... 14221
213 ..... 14221
214 ..... 14221
245 ..... 14221
248 ..... 14221

**9 CFR**

**Proposed Rules:**
Ch. I ..... 13221
Ch. III ..... 13221
149 ..... 12293
307 ..... 12122
350 ..... 12122
352 ..... 12122
354 ..... 12122
362 ..... 12122
381 ..... 12122
533 ..... 12122
590 ..... 12122
592 ..... 12122

**10 CFR**

1061 ..... 14807

**Proposed Rules:**
2 ..... 14695
21 ..... 14695
26 ..... 14695
50 ..... 14695
51 ..... 14695
52 ..... 14695
55 ..... 14695
73 ..... 14695

**12 CFR**

228 ..... 13805
302 ..... 12079
1002 ..... 14363
Ch. X ..... 14808

**Proposed Rules:**
22 ..... 14696
208 ..... 14696
339 ..... 14696
614 ..... 14696
700 ..... 13494
701 ..... 13494
702 ..... 13498
703 ..... 13494, 13498
704 ..... 13494
713 ..... 13494
760 ..... 14696
1026 ..... 12839

**13 CFR**

120 ..... 13149

**14 CFR**

1 ..... 13629
11 ..... 13629, 13630
21 ..... 13630
25 ..... 14229, 14231, 14233, 14234, 14237, 14810
27 ..... 14526
39 ..... 12086, 12802, 12804, 12807, 12809, 13157, 13159, 13162, 13165, 13443, 13445, 13631, 13633, 13637, 13640, 13805, 13807, 13809, 13811, 13814, 13972, 13975, 13982, 13985, 13987, 13989, 14238, 14241, 14366, 14528, 14531
43 ..... 13630
47 ..... 13629
48 ..... 13629
71 ..... 11859, 11860, 13168, 13169, 13171, 13172, 13447, 13448, 13642, 13644, 13992
89 ..... 13629

91 ....13629
97 ....12812, 12815, 12816, 12819
107....13629, 13630
401....13448
404....13448
413....13448
414....13448
415....13448
417....13448
420....13448
431....13448
433....13448
435....13448
437....13448
440....13448
450....13448
460....13448
1264....14244
1271....14244

**Proposed Rules:**

25....14387
39 ....12127, 12294, 12550, 12857, 12862, 13222, 13225, 13228, 13229, 13232, 13234, 13237, 13239, 13502, 13505, 13665, 13828, 13830, 13833, 13836, 13838, 13841, 14017, 14020, 14023, 14281, 14283, 14285, 14289, 14290, 14293, 14551, 14554
71 ....12129, 12865, 12866, 12868, 13242, 13244, 13246, 13247, 13249, 13668, 13670, 14026, 14293, 14295, 14556
73....12552

**15 CFR**

740....13173, 14689
742....13173, 14689
744 ....12529, 13173, 13179, 14534

**16 CFR**

317....12091

**17 CFR**

201....13645
275....13024
279....13024

**18 CFR**

157....12257

**Proposed Rules:**

4....13506
5....13506
35....12132
284....12132, 12879

**19 CFR**

4....14245
12....13993
Ch. I....12534, 14812, 14813
122....14245
123....14245
145....14245
149....14245

**20 CFR**

655....13995
656....13995

**Proposed Rules:**

501....14557
641....14558
655....14558
658....14558
667....14558
683....14558
726....14558
802....14558

**21 CFR**

510....13181, 14815
516....13181
520....13181, 14815
522....13181, 14815
524....13181, 14815
526....13181
529....13181, 14815
556....13181, 14815
558....13181, 14815
1308....11862, 12257

**Proposed Rules:**

1308....12296, 14707

**22 CFR**

126....14802

**Proposed Rules:**

213....11905

**24 CFR**

28....14370
30....14370
87....14370
180....14370
3280....13645
3282....13645, 14370
3285....13645

**26 CFR**

1 ....12821, 13191, 13647, 13648

**Proposed Rules:**

1....12886, 13250

**29 CFR**

780....12535
788....12535
795....12535
4044....14280

**Proposed Rules:**

7....14558
8....14558
18....14559
22....14558
24....14558
26....14558
29....14558
37....14558
38....14558
96....14558
103....14297
417....14558
458....14558
500....14558
525....14558
530....14558
580....14558
780....14027
788....14027
791....14038
795....14027
1978....14558
1979....14558
1980....14558
1981....14558
1982....14558
1983....14558
1984....14558
1985....14558
1986....14558
1987....14558
1988....14558
2204....13251

**31 CFR**

16....12537
27....12537
35....13449
50....12537
501....14534
510....14534
535....14534
536....14534
539....14534
541....14534
542....14534
544....14534
546....14534
547....14534
548....14534
549....14534
552....14534
560....14534
561....14534
566....14534
576....14534
583....14534
584....14534
588....14534
592....14534
594....14534
597....14534
598....14534

**33 CFR**

100....13998
117....12821
165 ....12539, 12541, 12543, 13649, 13651, 13653

**Proposed Rules:**

96....11913
100....14714, 14716
165....12887, 14389

**34 CFR**

**Proposed Rules:**

Ch. III....12136, 14048, 14374
361....13511

**37 CFR**

210....12822

**39 CFR**

230....14539

**40 CFR**

49....12260
52 ....11867, 11870, 11872, 11873, 11875, 11878, 12092, 12095, 12107, 12263, 12265, 12270, 12827, 13191, 13655, 13658, 13816, 13819, 14000, 14007, 14541, 14827
62....12109, 13459
63....13819
81....12107, 14832
131....14834
141....12272, 14003
147....14846
180 ....12829, 13196, 13459
271....12834
282....12110

**Proposed Rules:**

49....14392
52 ....11913, 11915, 12143, 12305, 12310, 12554, 12889, 13254, 13256, 13260, 13264, 13511, 13514, 13671, 13679, 13843, 14055, 14061, 14297, 14299, 14392, 14396, 14856
62....11916
81....12892
141....13846, 14063
147....14858
257....14066
271....12895
282....12145
414....14560
751....14398

**41 CFR**

**Proposed Rules:**

60–30....14558

**42 CFR**

400....14690
405....14542
410....14690
414....14690
415....14690
423....14690
424....14690
425....14690

**Proposed Rules:**

51c....13872
100....14567

**43 CFR**

8365....14009

**44 CFR**

64....12117, 14545

**Proposed Rules:**

206....14067

**45 CFR**

1230....13822
2554....13822

**Proposed Rules:**

160....13683
164....13683

**46 CFR**

401....14184
404....14184

**Proposed Rules:**

71....11913
115....11913
176....11913

**47 CFR**

0....12545
1....12545, 15026
25....11880
27....13659
73....14851
74....13660

**Proposed Rules:**

1 ....12146, 12312, 12556, 12898
2....13266
9....12399
15....13266
25....13266
27....12146, 13266
63....12312
64....14859
73 ....12161, 12162, 12163, 12556, 12898, 13278, 13516,

13684, 14401
101 ....13266

**48 CFR**

Ch. 1 ....13794
4 ....13794
52 ....13794
**Proposed Rules:**
1 ....14862, 14863
2 ....14863
3 ....14862, 14863
4 ....14863
7 ....14863
9 ....14863
11 ....14863
12 ....14862, 14863
13 ....14863
14 ....14863
15 ....14863
16 ....14863
18 ....14863
19 ....14864
25 ....14863
35 ....14864
37 ....14863
42 ....14863
44 ....14863
52 ....14862, 14863
53 ....14863

**49 CFR**

191 ....12834
192 ....12834, 12835
209 ....11888
211 ....11888
389 ....11891
Ch. XII ....13971
**Proposed Rules:**
571 ....13684

**50 CFR**

17 ....11892, 13200, 13465
300 ....13475
622 ....14549
635 ....12291, 12548, 13491
648 ....13823, 14012
660 ....13824, 14379, 14693
679 ....11895, 13215, 13493, 14013, 14014, 14015, 14694, 14851
680 ....11895
**Proposed Rules:**
17 ....12563
223 ....13517, 13518
226 ....13517, 13518
622 ....12163, 12166
648 ....12591
660 ....14401

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List March 15, 2021**

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